

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Ring, Chair
Senator Hays, Vice Chair

MEETING DATE: Thursday, March 7, 2013

TIME: 10:30 a.m.—12:30 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Ring, Chair; Senator Hays, Vice Chair; Senators Bean, Benacquisto, Bradley, Hukill, Montford, Simmons, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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A proposed committee substitute for the following bill (SB 534) is available:

1	SB 534 Brandes (Compare CS/H 599)	Publicly-funded Defined Benefit Retirement Plans; Providing that the state is not liable for shortfalls in local government retirement systems or plans; requiring a defined benefit system or plan to report certain information to the Department of Management Services and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make the information available on certain websites, etc.	Fav/CS Yeas 7 Nays 2
		GO 02/21/2013 Temporarily Postponed GO 03/07/2013 Fav/CS CA AP	

Consideration of proposed committee bill:

2	SPB 7024	State Technology; Creating the Department of State Technology; creating a Technology Advisory Council and providing for membership; establishing the Fletcher Shared Resource Center within the Department of Financial Services to provide enterprise information technology services to the department, co-location services to the Department of Legal Services and the Department of Agriculture and Consumer Services, and host the Legislative Appropriations System/Planning and Budgeting Subsystem, etc.	Submitted as Committee Bill
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Consideration of proposed committee bill:

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability

Thursday, March 7, 2013, 10:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SPB 7026	Transparency in Government Spending; Requiring the Executive Office of the Governor to establish a single website providing access to other websites; requiring the Department of Management Services to maintain a website that provides current information on state employees and officers; authorizing the Chief Financial Officer to make certain information available on a website for viewing and downloading by the public and providing guidelines for regulation of such website; providing applicability of public record requests for information posted on the website, etc.	Submitted as Committee Bill
4	SB 244 Dean (Identical H 7)	Water Management Districts; Providing for the adoption of certain reservations and minimum flows and levels by the Department of Environmental Protection; requiring water management districts to apply, without adopting by rule, the reservations, minimum flows and levels, and recovery and prevention strategies adopted by the department; requiring a regional water supply authority and the applicable water management district to jointly develop the water supply component of the regional water supply plan, etc. EP 02/06/2013 Favorable GO 03/07/2013 Favorable	Favorable Yeas 9 Nays 0
5	SB 366 Hukill (Similar CS/H 589)	State Poet Laureate; Assigning duties to the Florida Council on Arts and Culture relating to the promotion of poetry and recommendations for the appointment of the State Poet Laureate; creating the honorary position of State Poet Laureate within the Department of State; providing that the State Poet Laureate, the State Poet Laureate Emeritus and the State Poet Laureate Emerita shall serve without compensation, etc. GO 03/07/2013 Fav/CS ED RC	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents



784588

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability (Bean and Bradley) recommended the following:

Senate Amendment

Delete line 81
and insert:
system or plan shall



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2013	.	
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	.	

The Committee on Governmental Oversight and Accountability (Bean and Bradley) recommended the following:

Senate Amendment

Delete lines 129 - 134
and insert:
performance information related to the system or plan.



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Proposed Committee Substitute by the Committee on Governmental
Oversight and Accountability

A bill to be entitled

An act relating to publicly funded defined benefit retirement plans; amending s. 112.66, F.S.; providing that the state is not liable for shortfalls in local government retirement systems or plans; creating s. 112.664, F.S.; requiring a defined benefit system or plan to report certain information to the Department of Management Services by a certain date and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make certain information available on certain websites; providing consequences for failure to timely submit the required information; providing a method for a plan sponsor to request a hearing to contest such consequences; amending s. 112.665, F.S.; requiring the department to provide a fact sheet specifying certain information; providing a declaration of important state interest; providing an effective date.

WHEREAS, in 2012, there were 492 local government employee defined benefit pension plans in Florida, providing pension benefits to approximately 79,000 retirees. The interests of participants in many of these plans may have property rights implications under state law, and

WHEREAS, local government employee defined benefit pension plans are becoming a large financial burden on certain local



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governments and have already resulted in tax increases and the reduction of services, and

WHEREAS, the 2012 Florida Local Government Retirement Systems Annual Report published by the Department of Management Services specifies the total unfunded actuarial accrued liability of all local government defined benefit pension plans at approximately \$10 billion, and

WHEREAS, some economists and observers have stated that the extent to which state or local government employee defined benefit pension plans are underfunded is obscured by governmental accounting rules and practices, particularly as they relate to the valuation of plan assets and liabilities. This results in a misstatement of the value of plan assets and an understatement of plan liabilities, a situation that poses a significant threat to the soundness of state and local budgets, and

WHEREAS, there is currently a lack of meaningful disclosure regarding the value of state or local government employee defined benefit pension plan assets and liabilities. This lack of meaningful disclosure poses a direct and serious threat to the financial stability of such plans and their sponsoring governments, impairs the ability of state and local government taxpayers and officials to understand the financial obligations of their government, and reduces the likelihood that state and local government processes will be effective in assuring the prudent management of their plans, and

WHEREAS, the financial health of state or local government employee pension benefit plans can have statewide public repercussions, and the meaningful disclosure of the value of



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their assets and liabilities is necessary and desirable in order to adequately protect plan participants and their beneficiaries as well as the general public, and to further efforts to provide for the general welfare and the free flow of commerce, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (14) is added to section 112.66, Florida Statutes, to read:

112.66 General provisions.—The following general provisions relating to the operation and administration of any retirement system or plan covered by this part shall be applicable:

(14) The state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

Section 2. Section 112.664, Florida Statutes, is created to read:

112.664 Reporting standards for defined benefit retirement plans or systems.—

(1) In addition to the other reporting requirements of this part, within 180 days after the close of the first plan year that ends on or after June 30, 2013, and thereafter in each year required under s. 112.63(2), each defined benefit retirement system or plan, including the Florida Retirement System, shall electronically report the following information to the Department of Management Services in a format prescribed by the department:

(a) The long-term funded ratio calculated in a manner



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similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any.

(b) The dollar value of the unfunded accrued liability, if any, of the plan.

(c) The number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits.

(d) The recommended contributions to the plan under the calculations required under paragraph (a) stated as an annual dollar value and a percentage of valuation payroll.

(2) Each defined benefit retirement system or plan shall use the following assumptions and methods in determining the information required under subsection (1):

(a) The actuarial cost method, which is the Entry Age Normal method.

(b) The assumed rate of return on investments and the assumed discount rate, which are the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department of the Treasury.

(c) Preretirement mortality calculated using the RP-2000 Mortality Tables for male and female employees which accounts for generational mortality improvements. Postretirement mortality is calculated using the RP-2000 Mortality Tables for healthy white-collar employees, as projected from the year 2000 to the valuation year using Projection Scale AA.



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- 115 (d) The asset valuation method, which is the market value
116 less the value of any deferred retirement option program
117 accounts.
- 118 (e) The actuarial accrued liabilities, excluding the value
119 of any deferred retirement option program accounts.
- 120 (f) All other assumptions and methods used by the system or
121 plan in its latest valuation.
- 122 (3) Each defined benefit retirement system or plan and its
123 plan sponsor:
- 124 (a) Shall provide the information required by this section
125 and the funded ratio of the system or plan as determined in the
126 most recent actuarial valuation as part of the disclosures
127 required under s. 166.241(3) and on any website that contains
128 budget information relating to the plan sponsor or actuarial or
129 performance information related to the system or plan. The
130 Executive Office of the Governor shall comply with this
131 subsection by making the information and funded ratio relating
132 to the Florida Retirement System available on the website
133 described in s. 215.985 which contains state financial
134 information.
- 135 (b) That have a publicly available website shall provide
136 the plan's most recent financial statement and actuarial
137 valuation on that website.
- 138 (4) The plan shall be deemed to be in noncompliance if it
139 has not submitted the required information to the Department of
140 Management Services within 30 days after receipt of the
141 certified actuarial report for the plan year for which the
142 information is required to be submitted to the department.
- 143 (a) The department may notify the Department of Revenue and



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- 144 the Department of Financial Services of the noncompliance, and
145 the Department of Revenue and the Department of Financial
146 Services shall withhold any funds not pledged for satisfaction
147 of bond debt service and which are payable to the plan sponsor
148 until the information is provided to the department. The
149 department shall specify the date the withholding is to begin
150 and notify the Department of Revenue, the Department of
151 Financial Services, and the plan sponsor 30 days before the
152 specified date.
- 153 (b) Within 21 days after receipt of the notice, the plan
154 sponsor may petition the department for a hearing under ss.
155 120.569 and 120.57. The Department of Revenue and the Department
156 of Financial Services may not be parties to the hearing, but may
157 request to intervene if requested by the Department of
158 Management Services or if the Department of Revenue or the
159 Department of Financial Services determines its interests may be
160 adversely affected by the hearing.
- 161 Section 3. Subsection (1) of section 112.665, Florida
162 Statutes, is amended to read:
- 163 112.665 Duties of Department of Management Services.—
164 (1) The Department of Management Services shall:
- 165 (a) Gather, catalog, and maintain complete, computerized
166 data information on all public employee retirement systems or
167 plans in the state, based upon a review of audits, reports, and
168 other data pertaining to the systems or plans;
- 169 (b) Receive and comment upon all actuarial reviews of
170 retirement systems or plans maintained by units of local
171 government;
- 172 (c) Cooperate with local retirement systems or plans on



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matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Annually issue, by January 1 ~~annually~~, a report to the President of the Senate and the Speaker of the House of Representatives, which ~~report~~ details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Provide a fact sheet for each participating local government defined benefit pension plan which summarizes ~~summarizing~~ the plan's actuarial status. The fact sheet should provide a summary of the plan's most current actuarial data, minimum funding requirements as a percentage of pay, and a 5-year history of funded ratios. The fact sheet must include a brief explanation of each element in order to maximize the transparency of the local government plans. The fact sheet must also contain the information specified in s. 112.664(1). These documents shall be posted on the department's website. Plan sponsors that have websites must provide a link to the department's website;

(f) Annually issue, by January 1 ~~annually~~, a report to the Special District Information Program of the Department of Economic Opportunity which ~~that~~ includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions ~~as~~ specified in part I of chapter 121; and

(g) Adopt reasonable rules to administer ~~the provisions of~~



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this part.

Section 4. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner as required by s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 5. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 534

INTRODUCER: Committee on Governmental Oversight and Accountability and Senator Brandes

SUBJECT: Public Defined Benefit Pension Plans

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Fav/CS
2.			CA	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 534 explicitly provides that the state is not liable for any obligation relating to any financial shortfalls in any local government retirement plan. The bill also specifies additional reporting requirements for public pension plans, and provides that local plans which do not comply with the reporting requirements may jeopardize their revenue sharing funds.

This bill substantially amends sections 112.66 and 112.665 of the Florida Statutes, and creates section 112.664.

II. Present Situation:

Florida Local Retirement Systems and Plans

The Division of Retirement of the Department of Management Services (DMS) reports¹ that as of September 30, 2012, there are 492 defined benefit plans sponsored by 249 local governments in Florida. The vast majority of the plans, 486, are local government defined benefit systems that

¹ Division of Management Services, *Florida Local Government Retirement Systems*, 2012 Annual Report, available online at: https://www.rol.frs.state.fl.us/forms/2012_Local_Report.pdf (last visited on February 11, 2013).

provide benefits to 77,331 retirees, with 102,636 active employees, and total plan assets of \$23.8 billion.² The average annual pension in these local defined benefit plans is \$25,109, and the average annual required contribution rate as a percentage of payroll is 29.62 percent. The total unfunded actuarial accrued liability for all the defined benefit plans as of September 30, 2012, was \$10 billion.

Actuarial Reporting for Public Pension Plans

Section 112.63, F.S., requires that public pension plans funded in whole or part by public plans must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary, at least every three years. The actuarial reports must include at least the following information:

- Adequacy of employer and employee contributions;
- A plan to amortize any unfunded liability, and a description of actions taken to reduce the unfunded liability;
- A description and explanation of actuarial assumptions;
- A schedule illustrating the amortization of unfunded liabilities, if any;
- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports;
- A disclosure of the present value of the plan's accrued vested, nonvested, and total benefits, as adopted by the Financial Accounting Standards Board, using the Florida Retirement System's assumed rate of return; and
- A statement by the enrolled actuary that the report is complete and accurate and that the techniques and assumptions used are reasonable and meet the requirements of state law.

The actuarial cost methods used to establish the annual normal costs of the plans must be those methods approved in the Employee Retirement Income Security Act of 1974.

The actuarial reports must be submitted to the Department of Management Services, which must review the reports to determine whether the actuarial valuation is complete, accurate, or based on reasonable assumptions.³

Firefighter and Police Pension Plans

Sections 175.261 and 185.221, F.S., specify the financial reporting requirements for firefighter and municipal police pensions, respectively, which generally require an annual independent audit, and an actuarial valuation every three years. The reports must be submitted to DMS' Division of Retirement, which issues an annual report to the Legislature based upon the reporting from the plans.

Sections 175.051 and 85.04, F.S., state, in pertinent part, that actuarial deficits, if any, arising under plans under chapters 175 or 185, shall not be the obligation of the state.

² The other 6 plans are school board early retirement programs that provide benefits to 1,644 retirees, with active plan membership of 8,631, and total plan assets of \$63.7 million.

³ Section 112.63(4)(a), F.S.

Generally Accepted Accounting Principles

The Governmental Accounting Standards Board (GASB) is the independent organization that establishes and improves standards of accounting and financial reporting for U.S. state and local governments. GASB was established in 1984 by agreement of the Financial Accounting Foundation and 10 national associations of state and local government officials. GASB is recognized by governments, the accounting industry, and the capital markets as the official source of generally accepted accounting principles for state and local governments.⁴

In June of 2012, GASB released Statement No. 67, *Financial Reporting for Pension Plans*, which establishes standards of financial reporting for separately issued financial reports and specifies the required approach to measuring the pension liability of employers and nonemployer contributing entities for benefits provided through the pension plan (the net pension liability), about which information is required to be presented. The provisions in Statement 67 are effective for financial statements for periods beginning after June 15, 2013.⁵ The new Statements relate to accounting and financial reporting issues only—how pension costs and obligations are measured and reported in audited external financial reports. The Statements do not address how governments approach pension plan funding—a government’s policy regarding how much money it will contribute to its pension plan each year.⁶

Actuarial Soundness and Minimum Funding Standards for Pensions

Article X, s. 14, of the State Constitution requires public retirement benefits to be funded on a sound actuarial basis:

SECTION 14: State retirement systems benefit changes.- A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.⁷

The “Florida Protection of Public Employee Retirement Benefits Act” located in part VII of ch. 112, F.S., provides minimum operation and funding standards for public employee retirement plans. The legislative intent of this act is to “prohibit the use of any procedure, methodology, or

⁴ From “Facts About GASB,” available at http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824305999&blobheader=application%2Fpdf&blobcol=url_data&blobtable=MungoBlobs (last visited on February 11, 2013).

⁵ Summary of Statement No. 67, available at http://www.gasb.org/cs/ContentServer?c=Pronouncement_C&pagename=GASB/Pronouncement_C/GASBSummaryPage&cid=1176160219444 (last visited on February 14, 2013).

⁶ New GASB Pension Statements to Bring about Major Improvements in Financial Reporting, a June 2012 publication by GASB, available at http://www.gasb.org/cs/BlobServer?blobkey=id&blobwhere=1175824124337&blobheader=application%2Fpdf&blobcol=url_data&blobtable=MungoBlobs (last visited on February 18, 2013).

⁷ Art. X, section 14 of the Florida Constitution.

assumptions, the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”⁸

Internal Revenue Code Section 430: Minimum Funding Standards for Single-Employer Defined Benefit Pension Plans

For actuarial determinations made pursuant to Section 430 of the Internal Revenue Code, the interest rate used in determining the present value of the liabilities of the plan must be a segmented corporate bond yield curve. The first segment consists of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year; the second segment consists of benefits reasonably determined to be payable between 5 and 20 years; and the third segment rate is benefits reasonably determined to be payable after 20 years.⁹

The table below¹⁰ lists the 24-month average segment rates without adjustment for the applicable percentages of the 25-year average segment rates, and lists the 24-month average segment rates as adjusted by the applicable maximum and applicable minimum percentages of the 25-year average segment rates.

Funding Table 3							
For Plan Years Beginning In	Applicable Month	24-Month Average Segment Rates Not Adjusted			Adjusted 24-Month Average Segment Rates, Based on Applicable Percentage of 25-Year Average Rates		
		First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2013	Feb-13	1.58	4.34	5.38	4.94	6.15	6.76
2013	Jan-13	1.62	4.40	5.45	4.94	6.15	6.76
2013	Dec-12	1.66	4.47	5.52	4.94	6.15	6.76
2013	Nov-12	1.69	4.53	5.60	4.94	6.15	6.76
2013	Oct-12	1.72	4.58	5.67	4.94	6.15	6.76
2013	Sep-12	1.75	4.62	5.72	4.94	6.15	6.76
	Applicable Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2012	Feb-13	1.58	4.34	5.38	5.54	6.85	7.52
2012	Jan-13	1.62	4.40	5.45	5.54	6.85	7.52
2012	Dec-12	1.66	4.47	5.52	5.54	6.85	7.52
2012	Nov-12	1.69	4.53	5.60	5.54	6.85	7.52
2012	Oct-12	1.72	4.58	5.67	5.54	6.85	7.52
2012	Sep-12	1.75	4.62	5.72	5.54	6.85	7.52
2012	Aug-12	1.77	4.67	5.78	5.54	6.85	7.52
2012	Jul-12	1.81	4.73	5.85	5.54	6.85	7.52
2012	Jun-12	1.84	4.79	5.90	5.54	6.85	7.52
2012	May-12	1.87	4.84	5.96	5.54	6.85	7.52
2012	Apr-12	1.90	4.90	6.01	5.54	6.85	7.52
2012	Mar-12	1.93	4.95	6.07	5.54	6.85	7.52
2012	Feb-12	1.96	5.01	6.13	5.54	6.85	7.52
2012	Jan-12	1.98	5.07	6.19	5.54	6.85	7.52

⁸ Section 112.61, F.S.

⁹ Section 430(h)(2)(C) of the Internal Revenue Code.

¹⁰ This table is taken from Funding Yield Curve Segment Rates, available at <http://www.irs.gov/Retirement-Plans/Funding-Yield-Curve-Segment-Rates> (last visited February 15, 2013).

	Applicable Month	First Segment	Second Segment	Third Segment	First Segment	Second Segment	Third Segment
2012	Dec-11	1.99	5.12	6.24	5.54	6.85	7.52
2012	Nov-11	2.01	5.16	6.28	5.54	6.85	7.52
2012	Oct-11	2.03	5.20	6.30	5.54	6.85	7.52
2012	Sep-11	2.06	5.25	6.32	5.54	6.85	7.52

Section 430(h)(3) of the Internal Revenue Code also provides that the Secretary must by regulation prescribe mortality tables to be used in determining any present value or making any computation under section 430 of the Code, implemented as the RP-2000 Mortality Tables.

III. Effect of Proposed Changes:

Section 1 amends s. 112.66, F.S., to specify that the state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

Section 2 creates s. 112.664, F.S., requiring additional reporting requirements for all publicly-funded defined benefit retirement plans. The following information must be provided to DMS yearly, within 180 days after the close of the first plan year that ends after June 30, 2013, and thereafter in each year in which an actuarial valuation of the plan is done:

- The long-term funded ratio calculated in a manner similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any.
- The dollar value of the unfunded accrued liability, if any, of the plan.
- The number of months or years for which the current market value of assets are adequate to sustain the payment of expected retirement benefits.
- The recommended contributions to the plan under GASB No. 67 calculations, stated as an annual dollar value and a percentage of valuation payroll.

To determine the information above, each reporting plan must use the following assumptions and methods:

- The actuarial cost method must be the Entry Age Normal method.
- The assumed rate of return on investments and the assumed discount rate must be the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department of the Treasury.
- Preretirement mortality must be calculated using the RP-2000 Mortality Tables for male and female employees which accounts for generational mortality improvements. Postretirement mortality must be calculated using the RP-2000 Mortality Tables for healthy white-collar employees, as projected from the year 2000 to the valuation year using Projection Scale AA.
- The asset valuation method must be the market value less the value of any deferred retirement option program accounts.
- The actuarial accrued liabilities, excluding the value of any deferred retirement option program accounts
- All other assumptions and methods must be those used by the system or plan in its latest valuation.

Though it is a reporting requirement and not a funding requirement, the corporate bond assumed discount rate may produce lower funded ratios for most plans, since in the actuarial reporting the

plans are currently doing, the average assumed rate of return for local plans is approximately 7.7%.¹¹

The information required by this bill must be provided by local government plan sponsors and the plans in the municipal budget disclosure required by s. 166.241(3), F.S., and on any websites that contain budget information, or actuarial or plan performance information. Each plan sponsor and plan that has a publically available website must also provide the plan's most recent financial statement and actuarial valuation on the website.

Plans that fail to timely submit the required information within 30 days after receipt of the plans actuarial report will be deemed to be in noncompliance. DMS may notify the Department of Revenue (DOR) and Department of Financial Services (DFS) of the noncompliance, and DOR and DFS must withhold funds payable to the plan sponsor which are not pledged towards bond debt service. The bill gives plan sponsors administrative rights if these actions are taken.

Section 3 amends s. 112.665, F.S., to mandate that the DMS-produced local pension plan fact sheets must contain the additional reporting information required by this bill.

Section 4 is the legislative finding of an important state interest.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest, and one of the following relevant exceptions must apply:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

¹¹ Using data from the July 1, 2010 actuarial valuation of the FRS, a study was done in March 2011, to estimate the impact of changing the FRS investment return assumptions. The actuarial liability of the FRS was \$134.2 billion; the investment return rate assumption was (and still is) 7.75%. The study found that changing the investment return assumption from 7.75% to 6% would increase actuarial liabilities by \$36 billion; changing it to 5% would increase actuarial liabilities by \$62.9 billion. Study available at <http://www.floridahasarighttoknow.com/docs/StatePensionActuaryLetter.pdf>, (last visited on February 18, 2013).

Subsection (d) of Section (18) provides an exemption for general laws having an insignificant fiscal impact. Laws determined to have an “insignificant fiscal impact,” means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10, which equates to approximately \$1.9 million.

The bill contains provisions that may require expenditures applicable to all public sector pension plans in Florida. The bill contains a finding of important state interest.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires additional reporting requirements for local plans, which may incur additional costs in producing the required reporting. The exact cost of compliance with this bill is indeterminate, though last year DMS estimated that the cost of compliance for a local pension financial rating plan proposal that involved some similar reporting requirements could range from \$1,000 to \$5,000 per plan, per year.¹²

According to the Department of Management Services (department), the original filed version of the bill would increase administrative costs to the Division of Retirement (division), including staff and actuarial work, to comply with the reporting requirements in the bill. According to the department’s bill analysis, it estimates that the fiscal impact would be as follows:¹³

The new disclosure requirements do not affect the actuarial contributions for funding purposes for the FRS; however, there will be an administrative cost associated with preparing the new disclosures. The consulting actuary estimates that the additional

¹² Financial Rating of Local Government Defined Benefit Plans, January 25, 2012, by the Department of Management Services, on file with the Senate Governmental Oversight and Accountability Committee.

¹³ Department of Management Services, Bill Analysis 2013, for SB 534/HB 599, dated February 8, 2013, on file with the Governmental Oversight and Accountability Committee.

reporting requirement would cost about \$20,000 in the first year and \$10,000 in each subsequent year.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$20,000	\$10,000	\$10,000
Non-recurring	-	-	-

In addition, one additional government analyst position would be required to insure that implementing and maintaining the actuarial database with these additional disclosure items does not negatively impact the timely accomplishment of current statutory responsibilities.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$57,693	\$57,693	\$57,693
Non-recurring	\$3,762	-	-

Additionally, the actuarial costs for the chapter plans under chapters 175 and 185, F.S., are paid for from the police and firefighter's trust fund.¹⁴ The bill creates an additional annual expenditure requirement for reporting in order to qualify for premium tax distributions.

Expenditures	FY 2013-14 Amount/FTE	FY 2014-15 Amount/FTE	FY 2015-16 Amount/FTE
Recurring	\$30,000	\$20,000	\$20,000
Non-recurring	-	-	-

VI. Technical Deficiencies:

None.

VII. Related Issues:

On March 7, 2013, the Committee on Governmental Oversight and Accountability adopted two hand-written amendments (barcodes 592460 and 784588), now in CS/SB 534, which were intended to remove the Florida Retirement System from the provisions of the bill. Though the amendments physically removed references to the FRS from the bill, the reporting requirements of the bill are placed in Part VII of chapter 112, F.S., which applies to defined benefit systems or plans supported in part or whole by public funds, which includes the FRS. The Legislature should explicitly exclude the FRS from the bill's requirements, if that is the intent of the Legislature.

¹⁴ The division conducts the actuarial valuations of chapter plans. *See* ss. 175.032(2) and 185.02(3), F.S.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/SB 534 by Governmental Oversight and Accountability on March 7, 2013:

The proposed committee substitute makes the following changes to the bill:

- Adds a finding of important state interest;
- Clarifies that the mortality tables must account for generational mortality improvements;
- Excludes Deferred Retirement Option Program (DROP) assets and liabilities from the calculations;
- Provides that all plans must report for the first plan year ending on or after June 30, 2013, and in each subsequent year in which an actuarial valuation is completed;
- Provides that plans that do not comply with the reporting requirements may have their revenue sharing withheld, and specifies administrative procedures; and
- Requires that the yearly local plan fact sheets produced by the DMS must include the additional reporting requirements.

- B. **Amendments:**

None.

By Senator Brandes

22-00447C-13

2013534

A bill to be entitled

An act relating to publicly-funded defined benefit retirement plans; amending s. 112.66, F.S.; providing that the state is not liable for shortfalls in local government retirement systems or plans; creating s. 112.664, F.S.; requiring a defined benefit system or plan to report certain information to the Department of Management Services and specifying the assumptions and methods to be used in determining the information submitted; requiring the plan sponsor to make the information available on certain websites; providing a time certain for submission of the information; providing consequences for failure to submit the required information; providing an effective date.

WHEREAS, in 2012, there were 492 local government employee defined benefit pension plans in Florida, providing pension benefits to approximately 79,000 retirees. The interests of participants in many of these plans may have property rights implications under state law, and

WHEREAS, local government employee defined benefit pension plans are becoming a large financial burden on certain local governments and have already resulted in tax increases and the reduction of services, and

WHEREAS, the 2012 Florida Local Government Retirement Systems Annual Report published by the Department of Management Services specifies the total unfunded actuarial accrued liability of all local government defined benefit pension plans at approximately \$10 billion, and

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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WHEREAS, some economists and observers have stated that the extent to which state or local government employee defined benefit pension plans are underfunded is obscured by governmental accounting rules and practices, particularly as they relate to the valuation of plan assets and liabilities. This results in a misstatement of the value of plan assets and an understatement of plan liabilities, a situation that poses a significant threat to the soundness of state and local budgets, and

WHEREAS, there is currently a lack of meaningful disclosure regarding the value of state or local government employee direct benefit pension plan assets and liabilities. This lack of meaningful disclosure poses a direct and serious threat to the financial stability of such plans and their sponsoring governments, impairs the ability of state and local government taxpayers and officials to understand the financial obligations of their government, and reduces the likelihood that state and local government processes will be effective in assuring the prudent management of their plans, and

WHEREAS, the financial health of state or local government employee pension benefit plans can have statewide public repercussions, and the meaningful disclosure of the value of their assets and liabilities is necessary and desirable in order to adequately protect plan participants and their beneficiaries as well as the general public, and to further efforts to provide for the general welfare and the free flow of commerce, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00447C-13

2013534

Section 1. Subsection (14) is added to section 112.66, Florida Statutes, to read:

112.66 General provisions.—The following general provisions relating to the operation and administration of any retirement system or plan covered by this part are shall be applicable:

(14) The state is not liable for any obligation relating to any current or future shortfall in any local government retirement system or plan.

Section 2. Section 112.664, Florida Statutes, is created to read:

112.664 Reporting standards for defined benefit retirement plans or systems.—

(1) In addition to the other reporting requirements of this part, effective July 1, 2013, and for every other plan year completed on or after January 1, 2013, each defined benefit retirement system or plan, including the Florida Retirement System, shall electronically report the following information to the Department of Management Services in a format established by the department:

(a) The long-term funded ratio calculated in a manner similar to the Government Accounting Standards Board's Statement No. 67, Financial Reporting for Pension Plans, including the market value of its assets, the value of its actuarial liabilities, and the amount of its unfunded accrued liability, if any.

(b) The dollar value of the unfunded accrued liability, if any, of the plan.

(c) The number of months or years for which the current

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2013534

market value of assets are adequate to sustain the payment of expected retirement benefits.

(d) The recommended contributions to the plan under the calculations required under paragraph (a) stated as an annual dollar value and a percentage of valuation payroll.

(2) Each defined benefit retirement system or plan shall use the following assumptions and methods in determining the information required under subsection (1):

(a) The actuarial cost method, which is the Entry Age Normal method.

(b) The assumed rate of return on investments and the assumed discount rate, which are the adjusted 24-month average corporate bond segment rates determined under s. 430(h)(2)(C)(iv) of the Internal Revenue Code by the Department of the Treasury.

(c) Preretirement mortality calculated using the RP-2000 Mortality Tables for male and female employees. Postretirement mortality is calculated using the RP-2000 Mortality Tables for healthy white-collar employees, as projected from the year 2000 to the valuation year using Projection Scale AA.

(d) The asset valuation method, which is the market value less the value of any deferred retirement option program accounts.

(e) All other assumptions and methods used by the system or plan in its latest valuation.

(3) Each defined benefit retirement system or plan and its plan sponsor shall provide the information required by this section and the funded ratio of the system or plan as determined in the most recent actuarial valuation as part of the

22-00447C-13 2013534

disclosures required under s. 166.241(3) and on any website that
contains budget information relating to the plan sponsor or
actuarial or performance information related to the system or
plan.

(4) Each retirement system or plan shall submit the
information required by this section to the department within
180 days after the close of the plan year together with
appropriate signed actuarial certification as established by the
department. For those plan years ending between January 1, 2013,
and July 1, 2013, the due date for the submission of information
is October 1, 2013.

(5) A plan established under chapter 175 or chapter 185
that fails to submit the information on a timely basis shall be
deemed to be in noncompliance with chapters 175 and 185, as
applicable.

(6) Any local government defined benefit pension plan that
fails to submit the information on a timely basis shall be
deemed to be in noncompliance with this part.

Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13

Meeting Date

Topic Local Pension Reporting Bill Number SB 534
 Name Kraig Conn Amendment Barcode _____ (if applicable)
 Job Title _____
 Address 301 S. Brimough Suite 300 Phone _____
 Street _____
 City Tall State FL Zip 32301 E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13

Meeting Date

Topic _____ Bill Number SB 534
 Name GARY RAINEY Amendment Barcode _____ (if applicable)
 Job Title President
 Address 343 W. Madison St Phone 224-7333
 Street _____
 City Tallahassee State FL Zip 32301 E-mail raineyg@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Professional Firefighters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Actuary bill

Bill Number 534
(if applicable)

Name Lisa Henning

Amendment Barcode _____
(if applicable)

Job Title Director of Legislative Affairs

Address 242 Office Plaza Dr

Phone 850-766-8808

Tallahassee, FL 32301
City State Zip

E-mail lisa@legislative@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Fraternal Order of Police

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13
Meeting Date

Topic Local Pension

Bill Number 534
(if applicable)

Name Leticia M Adams

Amendment Barcode _____
(if applicable)

Job Title Director of Governance Policy

Address 136 S. Bronough St.

Phone 850 544 6866

Tall FL 32301
City State Zip

E-mail ladamse@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13

Meeting Date

Topic Municipal Pensions

Bill Number 5534
(if applicable)

Name CAROL Weissert

Amendment Barcode _____
(if applicable)

Job Title Director LeRoy Collins Institute

Address _____

Phone 644-1441

Street

Tallahassee

FL

32312

City

State

Zip

E-mail carolweisert@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing LeRoy Collins Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 7, 2013

Meeting Date

Topic Pension Reporting

Bill Number 5534
(if applicable)

Name David Matkin

Amendment Barcode _____
(if applicable)

Job Title Assistant Professor

Address 1240 Talbot Ave

Phone 850-656-5499

Street

Tallahassee

FL

32308

City

State

Zip

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

White Time

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-7-13

Meeting Date

Topic

Retirement Plans

Bill Number

SB0534

(if applicable)

Name

Amy Datz

Amendment Barcode

(if applicable)

Job Title

Self Retired State Worker

Address

1130 Crestview Ave

Phone

850 322-7599

Street

Jalalhassee FL 32303

E-mail

Amalie.datz@

City

State

Zip

mac.com

Speaking:

☐

For

☒

Against

☐

Information

Representing

Self

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13

Meeting Date

Topic

RETIREMENT PLANS

Bill Number

538534

(if applicable)

Name

ROBERT SUAREZ

Amendment Barcode

(if applicable)

Job Title

VICE PRESIDENT, FLORIDA FIREFIGHTERS

Address

345 W MADISON STREET

Phone

305 984 3299

Street

TALUSHA

FL

City

State

Zip

E-mail

Speaking:

☐

For

☒

Against

☐

Information

Representing

FLORIDA PROFESSIONAL FIREFIGHTERS

Appearing at request of Chair:

☒

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

APPEARANCE RECORD

March 7 2013

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic FRS Reporting
 Name Kevin Watson
 Job Title Lobbyist

Bill Number SB 534
 (if applicable)

Amendment Barcode _____
 (if applicable)

Address 213 S. Adams Street
Tallahassee FL 32301
 City State Zip

Phone 850.224.2074

E-mail Kevin.watson@floridaea.org

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida Education Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

Wave Time

APPEARANCE RECORD

3/7/2013

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Pension Reporting
 Name Matt Rickett
 Job Title Lobbyist

Bill Number 534
 (if applicable)

Amendment Barcode _____
 (if applicable)

Address 300 East Brevard St.
Tallahassee FL 32301
 City State Zip

Phone _____

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/13

Meeting Date

Topic Public Retirement PlansBill Number 534

(if applicable)

Name Doug Martin

Amendment Barcode _____

(if applicable)

Job Title Legislative DirectorAddress 3004 Highland Oaks Terr.

Street

Tallahassee, FL 32301

City

State

Zip

Phone 850-212-7447 cellE-mail dmartin@afscme.orgSpeaking: ☐ For ☒ Against ☐ InformationRepresenting AFSCME Florida Council 79Appearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic _____

Bill Number 534

(if applicable)

Name Rowan Taylor

Amendment Barcode _____

(if applicable)

Job Title MIAMI-DADE FIRE FIGHTERAddress 8000 NW 21 ST

Street

MIAMI

City

FL

State

33122

Zip

Phone _____

E-mail _____

Speaking: ☐ For ☐ Against ☐ InformationRepresenting METRO-DADE FIRE FIGHTERSAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7024

INTRODUCER: For consideration by Governmental Oversight and Accountability Committee

SUBJECT: State Information Technology

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney		Submitted as Committee Bill
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7024 substantially revises how the state organizes and operates its information technology resources. The bill creates a Department of State Technology (DST) as an executive agency under the Governor. The defunct Agency for Enterprise Information Technology is abolished by the bill, and all of its duties, and all technology and telecommunications duties of the Department of Management Services, are transferred to the DST. The DST is given extensive authority to set state technology policy, and manage state enterprise IT services and procurements. The Northwood and Southwood shared resource centers are transferred to the DST.

This bill substantially amends the following sections of the Florida Statutes: 14.204, 282.0041, 282.0055, 282.0056, 282.0057, 282.203, 282.206, 282.318, 282.604, 282.703, 20.22, 110.205, 215.22, 215.322, 215.96, 216.292, 287.012, 287.057, 318.18, 320.0802, 328.72, 364.0135, 365.171, 365.172, 365.173, 365.174, 401.013, 401.015, 401.018, 401.021, 401.024, 401.027, 445.011, 445.045, 668.50, and 1006.73

This bill repeals the following sections of the Florida Statutes: 282.204, 282.205, 282.33, and 282.34.

The bill creates sections 282.0057 and 282.206 of the Florida Statutes.

II. Present Situation:

Agency for Enterprise Information Technology

Duties

In 2007 the Legislature created the Agency for Enterprise Information Technology (AEIT) to oversee policies for the design, planning, project management, and implementation of enterprise information technology services, to include information technology security.¹ The AEIT is administratively housed within the Executive Office of the Governor, with the Governor and Cabinet as the head of the agency.

The AEIT is required to²:

- Submit an annual work plan for approval by the Governor and Cabinet.
- Monitor the implementation, delivery, and management of the enterprise information technology services established in law.
- Make recommendations to the agency head and Legislature concerning other information technology services that should be designed, delivered, and managed as enterprise information technology services.
- Plan and establish policies for managing proposed statutorily authorized enterprise information technology services.
- Biennially publish a long-term strategic enterprise information technology plan.
- Perform duties related to enterprise information technology services including the state data center system, information technology security, and the statewide e-mail service.
- Coordinate with the Division of Purchasing in the Department of Management Services on the planning and acquisition of information technology products and work with the division in the establishment of best practices for procuring such products.
- Develop information technology standards.
- Submit a comprehensive transition plan for the consolidation of agency data centers into a primary data center.
- Annually provide the Legislature with recommendations for consolidating the purchase of information technology commodities and contractual services.

In 2008, specific duties and responsibilities pertaining to information technology security were assigned to the AEI,³ but the Office of Information Security was still housed within the Department of Management Services (DMS). In 2009 the Office of Information Security was created within the AEIT,⁴ and 8 full-time equivalents (FTE) were transferred from the DMS budget to the AEIT in the Fiscal Year 2009-2010 General Appropriations Act.

¹ 2007-105, Laws of Florida.

² Section 14.204, Florida Statutes.

³ 2008-116, Laws of Florida.

⁴ 2009-80, Laws of Florida.

Administrative Rules

The AEIT was authorized to adopt rules to carry out its statutory duties⁵ and to specifically adopt rules relating to:

- Information security;⁶ and
- State data center system.⁷

The AEIT adopted 34 administrative rules under the following chapters:

- Chapter 71-1, Florida Administrative Code, *Confirmation and Delegation of Authority*, effective July 13, 2009.
- Chapter 71A-1, Florida Administrative Code, *Florida Information Technology Resource Security Policies and Standards*, effective November 15, 2010.
- Chapter 71A-2, Florida Administrative Code, *Florida Information Resource Security Policies and Standards*, effective August 10, 2004.

The AEIT initiated, but never completed, the rule adoption process for the following two sets of rules:

- Chapter 71B-1, Florida Administrative Code, *Enterprise E-mail Service*.
- Chapter 71B-2, Florida Administrative Code, *Data Center System*.

Defunding the AEIT

In 2012, the Governor vetoed HB 5011, which abolished the AEIT and gave some of its duties to a new agency created in the bill. Because the bill also transferred the salary and positions from the AEIT to the new agency, the effect of the veto was to defund the AEIT, though its duties still exist in statute.

Primary Data Centers and Data Center Consolidation

The state data center system was created by the Legislature in 2008.⁸ The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center, and the Northwest Regional Data Center), other nonprimary data centers, and computing facilities serving state agencies. A “primary data center” is a data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities and that is established by law.⁹ A “computing facility” is an agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, F.S., but excludes single-server installations that exclusively perform a utility function such as file and print servers.¹⁰ The AEIT is responsible for developing policies for the system.¹¹

Wave 1 of data center consolidation was initiated in 2009 with proviso included in the fiscal year 2009-2010 General Appropriations Act that required the:

⁵ Section 14.204(7), F.S.

⁶ Section 282.318(6), F.S.

⁷ Section 282.201(2)(e), F.S.

⁸ Chapter 2008-116, L.O.F.

⁹ Section 282.0041(17), F.S.

¹⁰ Section 282.0041(7), F.S.

¹¹ Section 282.201(2), F.S.

- Florida Parole Commission to transfer its information technology services, to include its data center functions, to the Department of Corrections by July 1, 2009.
- Department of Juvenile Justice to consolidate its data center functions into the Northwood Shared Resource Center (NSRC) by July 1, 2010.
- Department of Business and Professional Regulation to consolidate its data center functions into the NSRC by November 30, 2010.

By October 1 of each year beginning in 2009, the AEIT is required to recommend to the Governor and Legislature at least two agency data centers or computing facilities for consolidation into a primary data center.¹² AEIT submitted its recommendations on September 30, 2009,¹³ for the Wave 2 consolidations and the Legislature directed via proviso in the fiscal year 2010-2011 General Appropriations Act the following consolidations:

To the Northwood Shared Resource Center (NSRC)

- Department of Juvenile Justice by July 1, 2010
- Department of Business and Professional Regulation by November 30, 2010
- Department of Children and Families' Winewood Office Complex by June 30, 2012
- Department of Transportation's Motor Carrier Compliance Office by July 1, 2011.

To the Southwood Shared Resource Center (SSRC)

- Department of Transportation Burns Office Building by March 31, 2012.
- Department of Transportation Survey and Mapping Office by March 31, 2012.

To the Northwest Regional Data Center (NWRDC)

- Department of Education by December 31, 2011.
- College Center for Library Automation by December 31, 2011.
- Florida Center for Library Automation by December 31, 2011.

To the NSRC or SSRC

- Agency for Health Care Administration by June 30, 2012.
- Department of Highway Safety and Motor Vehicles by December 31, 2011.

On December 23, 2010, the AEIT submitted its *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019*. This document provides recommendations for the consolidation of the remaining agency data centers and computing facilities after Wave 2. In 2011, the Legislature codified in statute the recommendations included in AEIT's December 23, 2010, report identifying the agencies required to consolidate into a primary data center within that fiscal year.¹⁴

In 2012, the Legislature amended the data center consolidation schedule as follows:¹⁵

To the NSRC

- Department of Highway Safety and Motor Vehicles' Office of Motor Carrier Compliance by July 1, 2012.

¹² s. 282.201(2), F.S.

¹³ *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers*. Agency for Enterprise Information Technology, September 30, 2009.

¹⁴ Chapter 2011-50, L.O.F.

¹⁵ Chapter 2012-142, L.O.F.

- Department of Highway Safety and Motor Vehicles by August 31, 2012.
- Department of Health's Test and Development Lab and all remaining data center resources located at the Capital Circle Office Complex by December 31, 2012.
- Department of Veterans' Affairs by July 1, 2013.
- Department of Legal Affairs by December 31, 2013.
- Department of Agriculture and Consumer Services' Agriculture Management Information Center in the Mayo Building and the Division of Licensing by March 31, 2014.

To the SSRC

- Fish and Wildlife Conservation Commission, except for the commission's Fish and Wildlife Research Institute in St. Petersburg, by July 1, 2013.
- Department of Economic Opportunity by October 31, 2013.
- Executive Office of the Governor, to include the Division of Emergency Management except for the Emergency Operation Center's management system in Tallahassee and the Camp Blanding Emergency Operations Center in Starke, by December 31, 2013.
- Department of Elderly Affairs by March 31, 2014.

To the NWRDC

- Department of Revenue's Carlton Building and Imaging Center locations by September 30, 2012.

The following entities are exempted from data center consolidation:

- Florida Department of Law Enforcement
- Department of Lottery's Gaming System and the department's Backup Data Center in Orlando
- Systems Design and Development in the Office of Policy and Budget
- State Board of Administration
- State Attorneys
- Public Defenders
- Criminal Conflict and Civil Regional Counsel
- Capital Collateral Regional Counsel
- Florida Clerks of Court Operations Corporation
- Florida Housing Finance Corporation

The Department of Financial Services must consolidate in Fiscal Year 2015-2016.

Each agency identified for consolidation into a primary data center must submit with its respective legislative budget request the specific recurring and nonrecurring budget adjustments of resources by appropriation category into the appropriate data processing category pursuant to the legislative budget request instructions in s. 216.023, F.S.

The Technology Program in the Department of Management Services

The Technology Program in DMS provides both wired and wireless telecommunications and information services to state agencies, cities, counties and other public entities; and plans, coordinates, and fosters public safety telecommunications throughout the state at all levels of

government.¹⁶ The technology program provides services in two primary areas. Public Safety Communications manages, oversees, coordinates, and updates statewide public safety communications at all levels of government, including updating the public-private Statewide Law Enforcement Radio System (SLERS), Florida Interoperability Network (FIN), and the enhanced statewide Florida Emergency Communications Numbers E911; coordinating with Local Public Safety Radio Services and Emergency Medical Services (EMS) radio communications; and coordinating the state's Emergency Support Function-Communications response to emergencies and disasters for the state's Emergency Operations Center. Statewide Telecommunications provides all methods of statewide communications planning and services; including voice, data, video, image, and radio services to state agencies, subdivisions of the state, municipalities, state universities, and nonprofit corporations through the SUNCOM Network. All state agencies are required to use the SUNCOM Network for their communications services. Telecommunications Services has a budget of \$256.5 million and 72 FTE; Wireless Services has a budget of \$32.9 million and 12 FTE.

The Financial Management Information System Act¹⁷

The Florida Financial Management Information System (FFMIS) Act, authorized in ss. 215.90 through 215.96, F.S., was established to plan, implement, and manage a unified information system which provides fiscal, management, and accounting information. The FFMIS Act established the Florida Management Information Board (FMIB) and the FFMIS Coordinating Council. The FMIB is comprised of the Governor and Cabinet and has overall responsibility for managing and overseeing the development of Florida Financial Management Information System pursuant to s. 215.95, F.S., including establishing financial management policies and procedures for executive branch agencies. The Council is comprised of the members of the Cabinet, the secretary of the Department of Management Services, and the director of the Governor's Office of Policy and Budget. Among other duties, the Council is to approve all FFMIS subsystem designs and modifications prior to implementation and to make recommendations to the FMIB on policy alternatives to ensure coordination between the subsystems as defined in ss. 215.93 and 215.96, F. S.

There are five FFMIS subsystems which must be designed, implemented, and operated pursuant to the act. Each has a statutorily-identified functional owner as well as additional statutory requirements as follows:

- Planning and Budgeting – The Executive Office of the Governor is the functional owner. The system must also be designed, implemented, and operated pursuant to ch. 216, F.S.
- Florida Accounting Information Resource (FLAIR) – The Department of Financial Services is the functional owner. The system must also be designed, implemented, and operated pursuant to ss. 17.03, 215.86, 216.141, and 216.151, F.S.
- Cash Management System (CMS) – The Chief Financial Officer is the functional owner.
- Purchasing (MyFloridaMarketplace) – The Department of Management Services is the functional owner.

¹⁶ All of the information in this section was obtained from a Government Program Summary by the Florida Legislature's Office of Program Policy Analysis and Government Accountability, available at <http://www.oppage.state.fl.us/profiles/4134/> (last visited on March 3, 2013).

¹⁷ All the information in this section comes from Florida Senate Issue Brief 2009-321, *Florida Financial Management Information System (FFMIS) Act*, pp. 2-3.

- Personnel Information (PeopleFirst) – The Department of Management Services is the functional owner. The system must also be designed, implemented, and operated pursuant to s. 110.116, F. S.

The FFMIS Act identifies each subsystem's general functional requirements but allows each functional owner to establish additional functions unless they are specifically prohibited by the FFMIS Act. Functional owners may not establish or maintain additional subsystems which duplicate any of the FFMIS subsystems.

The FMIB approved a strategic plan on March 14, 2000, that authorized the replacement of the FFMIS subsystems with an enterprise-wide financial management system that integrates financial information and standardizes policies and information. This system has never been implemented. The FMIB has not made any decisions relating to policy or the FFMIS subsystems since February 2001 when it modified the strategic plan to allow the use of outsourcing as a means to replace or enhance the functionality of the FFMIS subsystems. No subsystem designs or modifications have been brought to the FMIB for review or approval since that time. As a result, the overall governance and management of each FFMIS subsystem has been "unofficially delegated" to each functional owner and each functional owner has autonomously pursued an independent path for development and enhancement of its subsystem. The FMIB has been inactive since February 2005.

Method of Reorganization for the Executive Branch

Pursuant to s. 20.06, F.S., the executive branch of state government must be reorganized by transferring the specified agencies, programs, and functions to other specified departments, commissions, or offices. Such a transfer does not affect the validity of any judicial or administrative proceeding pending on the day of the transfer, and any agency or department to which are transferred the powers, duties, and functions relating to the pending proceeding must be substituted as a party in interest for the proceeding.

A type one transfer is the transferring intact of an existing agency or department so that the agency or department becomes a unit of another agency or a department. Any agency or department transferred to another agency or department by a type one transfer will exercise its powers, duties, and functions as prescribed by law, subject to review and approval by, and under the direct supervision of, the head of the agency or department to which the transfer is made, unless otherwise provided by law. Any agency or department transferred by a type one transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, transferred to the agency or department to which it is transferred. Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the

existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency or department or a program, activity, or function transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided. Unless otherwise provided, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions. Unless otherwise provided, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

Section 1 creates the Department of State Technology (DST) in s. 20.61, F.S., as an executive agency under the Governor. The DST must develop, implement, and manage state enterprise information technology services. The secretary of the department, who will be the state's Chief Information Officer (CIO), must be appointed by the Governor, and confirmed by the Senate.

The bill creates a Technology Advisory Council to make recommendations to the secretary on enterprise information technology policy and standards.

The bill specifies the divisions within the DST, and names various officials who serve at the pleasure of the Secretary, and specifies deputy technology officers who are responsible for core agency groups as follows:

Deputy Information Officer of Human Services, to include:

- Department of Elder Affairs.
- Agency for Health Care Administration.
- Agency for Persons with Disabilities.
- Department of Children and Families.
- Department of Health.
- Department of Veterans' Affairs.

Deputy Information Officer of Criminal and Civil Justice, to include:

- Department of Juvenile Justice.
- Parole Commission.
- Department of Corrections.
- Board of Clemency.
- Department of Law Enforcement.
- Department of Highway Safety and Motor Vehicles.

Deputy Information Officer of Education, to include the:

- Department of Education.

- State Board of Education.
- Board of Governors.

Deputy Information Officer of Business Operations, to include:

- Department of Revenue.
- Department of Business and Professional Regulation.
- Department of the Lottery.
- Department of Economic Opportunity.

Deputy Information Officer of Community Services, to include:

- Department of Military Affairs.
- Department of Transportation.
- Department of State.
- Department of Emergency Management.

Deputy Information Officer of Natural Resources, to include:

- Department of Environmental Protection.
- Department of Fish and Wildlife.
- Department of Citrus.

Deputy Information Officer of Executive and Administrative Support Service, to include:

- The Department of Financial Services.
- The Department of Management Services.
- The Department of Legal Affairs (DLA).
- The Department of Agriculture and Consumer Services (DACS).

The bill permits the DST to obtain administrative services from the DMS.

Section 2 amends s. 282.0041, F.S., by modifying, adding, and deleting some definitions, and changing references from the AEIT to the DST.

Section 3 amends s. 282.0055, F.S., to require the DST to design, plan, develop, implement, and manage state enterprise information technology (IT) services, and biennially develop a long-range plan for state IT resources

Specific duties and functions of the DST are as follows:

- Setting state technology policy.
- Development, design, planning, and management of enterprise IT services.
- Establishing architecture for the state's technology infrastructure.
- Preparing fiscal impact statements relating to necessary modifications and the delivery of technology to support policies required by proposed legislation.
- Coordinating technology resource acquisition planning.
- Advise and collaborate with DMS in procurement negotiations for IT products that will be used by multiple state agencies, upon request.

- Advise and collaborate with DMS in establishing best practices for the procurement of IT products, upon request.
- Providing oversight or project management for all technology resources for projects exceeding an annual investment of \$2.5 million.
- Establishing performance measurement standards and metrics for technology projects.
- Establishing standards for state agencies to submit information technology reports.
- Establishing and collecting fees and charges for data and delivery of enterprise information technology services to state agencies on a cost-sharing basis.
- Developing a cost recovery plan.
- At its discretion, collecting and maintaining an inventory of state agency IT resources.
- Assuming ownership or custody and control of information processing equipment, supplies, and positions.
- Adopting rules and policies for the efficient, secure, and economical management and operation of enterprise IT services.
- Providing other public sector organizations with access to the services provided by the agency on the same cost basis as applies to state agencies.
- Establishing statewide practices and policies to ensure that exempt or confidential data remains protected.
- Conducting periodic assessments of state agencies for compliance with statewide IT policies and making recommendations.
- Establishing and maintaining a single website to host the Transparency Florida information required by s. 215.985, F.S.
- Maintaining the official internet state portal.

Section 4 amends s. 282.0056, F.S., to change terminology to reflect the transfer of technology duties from AEIT to the DST in the development of an annual work plan.

Section 5 creates s. 282.0057, F.S., specifying a series of duties for the DST and state agencies, phased in over three years.

Beginning January 1, 2015, the DST must:

- Publish a report on its current and planned information technology expenditures, and a funding schedule for all major projects or initiatives, including cost estimates.
- Coordinate state agencies in implementing data sharing, and standardize data elements.
- Include in its legislative budget requests a recommendation for consolidating state agency data to provide better access.
- Oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects.

Beginning January 1, 2016, the DST must:

- Develop systems and methodologies to evaluate and prioritize existing IT projects and a plan for leveraging technology across state agencies. The DST must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, or the Board the status of information technology projects and the agency's recommendations for project development on a semi-annual basis. Such recommendations must be incorporated into the state agencies legislative budget requests for technology projects.

- Develop standards for application development.

Beginning January 1, 2018, the DST must review and approve technology purchases made by state agencies. Approval must be based on technology policies and standards established by the department and approved by the Legislature.

Section 6 amends s. 282.203, F.S., to change duties relating to the primary data centers from the AEIT to the DST. The primary data centers will be operated pursuant to this section until the DST takes over operations of the primary data centers on January 1, 2014, when s. 282.203, F.S., expires.

Sections 7 and 8 repeal ss. 282.204 and 282.205, F.S., which create the Northwood Shared Resource Center and the Southwood Shared Resource center.

Section 9 creates s. 282.206, F.S., to establish the Fletcher Shared Resource Center (Fletcher SRC) within the Department of Financial Services (DFS). The Fletcher SRC must collaborate with the DST to develop policies, procedures, and rules for the delivery of enterprise IT services. The Fletcher SRC must provide co-location services to the Department of Legal Affairs, provide full service to the Office of Financial Regulation and the Office of Insurance Regulation, and provide co-location services to host the legislative Appropriations System/Planning and Budgeting Subsystem (LAS/PBS).

The Fletcher SRC must be governed by a memorandum of understanding administered by a steering committee consisting of the chief information officers of the customer entities residing in the center.

The bill permits, but does not require, the DLA and the DACS to move its data center equipment to the Fletcher SRC.

Section 10 amends s. 282.318, F.S., to make terminology changes.

Sections 11 and 12 repeal ss. 282.33 and 282.34, F.S., relating to energy efficiency standards for data centers, and the implementation of a statewide email service.

Sections 13 through 15 amend ss. 282.604, 282.702, and 282.703, F.S., respectively, to make terminology changes.

Section 16 amends s. 20.22, F.S., to remove the technology program from the organizational structure of the DMS.

Sections 17 through 19 amend ss. 110.205, 215.22, and 215.322, F.S., respectively, to make terminology changes.

Section 20 amends s. 215.96, F.S., to add the Secretary of the DST to the coordinating council of the Financial Management Information Board.

Section 21 amends s. 216.292, F.S., to make a terminology change to reflect the transfer of technology duties from the DMS to the DST.

Section 22 amends s. 287.012, F.S., to specify a definition for the term “information technology.”

Sections 23 through 39 amend ss. 287.057, 318.18, 320.0802, 328.72, 364.0135, 365.171, 365.172, 365.173, 365.174, 401.013, 401.015, 401.018, 401.021, 401.024, 401.027, 445.011, 445.045, and 668.50, F.S., respectively, to change terminology to reflect the transfer of technology duties from the AEIT and the DMS to the DST.

Section 41 transfers all the powers, duties, functions, funds, rules, and contracts of the AEIT by type one transfer to the DST.

Section 42 transfers all the following powers, duties, functions, funds, rules, and contracts of the DMS by type one transfer to the DST, effective January 1, 2014:

- The technology program established under s. 20.22(2), F.S.
- Part II of Chapter 282, F.S., relating to accessibility of electronic information and IT for people with disabilities.
- Part III of Chapter 282, F.S., relating to the state communications network, the SUNCOM network, and the law enforcement radio system and interoperability network.
- Section 364.0135, F.S., relating to broadband Internet service.
- Sections 365.171-365.175, F. S., relating to emergency communications number E911.
- Part I of Chapter 401, F.S., relating to a statewide system of regional emergency medical telecommunications.

The following trust funds are transferred by type one transfer from the DMS to the DST:

- The Communications Working Capital Trust Fund.
- The Emergency Communications Number E911 System Fund.
- The State Agency Law Enforcement Radio System Trust Fund.
- Federal Grants Trust Fund

Unexpended balances of the DMS relating to the transferred duties are also transferred; lawful orders remain in effect; contracts remain in effect; rules remain in effect; and DST will be substituted as a party in interest for actions in which DMS is a party.

The Northwood and Southwood Shared Resource centers are transferred by type one transfers from the DMS to the DST, as are their contracts and rules.

Section 43 provides a 2013-2014 fiscal year appropriation of \$2,865,108 in recurring general revenue funds, \$2,134,892 in nonrecurring general revenue funds, and 24 full time equivalent positions with associated salary rate of \$2,010,951 are appropriated to the DST.

Except as otherwise provided, the bill takes effect July 1, 2013.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides a 2013-2014 fiscal year appropriation of \$2,865,108 in recurring general revenue funds, \$2,134,892 in nonrecurring general revenue funds, and 24 full time equivalent positions with associated salary rate of \$2,010,951 are appropriated to the DST.

Department of Management Services Administrative Costs

Currently, the Division of Telecommunications is a budget entity within the Department of Management Services. As such, DMS imposes an administrative assessment on the division to cover a portion of the costs of the department's executive direction budget entity. For FY 2012-13, this administrative assessment is roughly \$1.3 million. Likewise, the Southwood Shared Resource Center and the Northwood Shared Resource Center are assessed charges for the services they receive from the department. The assessments paid by the centers in the current year are roughly \$100,000. The table below shows the amounts of funds assessed to each of these budget entities to cover a portion of the department's administrative costs.

With the transfers of the Division of Telecommunications and the shared resource centers to the DST, the DMS will have to either (a) reduce the current FTE levels; (b) shift the assessments to other divisions and units remaining in the department; or (c) a combination of reductions and shifts.

The bill grants the Department of State Technology the authority to contract with the DMS for administrative functions. If the DST contracts with the DMS for administrative services, the loss of the administrative assessment revenues may be mitigated. However, those administrative functions are most likely will not include the functions currently fulfilled by the Office of the Secretary (i.e., communications, general counsel, inspector general, legislative affairs).

Executive Direction and Support Services Budget Entity Cost Pools	Department -wide Assessment	Current FTE	Div. of Telecom.	Southwood SRC	Northwood SRC	Total
Office of the Secretary						
Office of the Secretary	821,629	6	109,987			109,987
Information Technology	689,779	5	92,337			92,337
Communications	236,792	3	31,699			31,699
General Counsel	1,283,980	14	73,228			73,228
Inspector General	715,517	7	88,187	28,365	28,385	144,917
Legislative Affairs	238,919	2	31,984			31,984
Sub-total	3,986,616	37	427,422	28,365	28,385	484,152
Executive Direction and Support Services Budget Entity Cost Pools	Department -wide Assessment	Current FTE	Div. of Telecom.	Southwood SRC	Northwood SRC	Total
Administration						
Admin Dir./Budget Office/ Fiscal Integrity	769,965	6	104,359			104,359
Financial Management Services	1,218,235	19	676,866	56,729		733,595
Human Resources	354,693	4	38,669			38,669
Mail Room Operations	113,424	0	11,942			11,942
Departmental Purchasing	437,332	5	65,420			65,420
Sub-total	2,893,649	34	897,256			953,985
Total	6,880,265	71	1,324,678	85,094	28,365	1,438,137

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DST is created as an independent department; it is unclear why the DST would need to obtain administrative services from the DMS.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



608326

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete line 384
and insert:
(h) Providing oversight or project management for all



936970

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete lines 427 - 429
and insert:
recommending to the Governor or the Financial Management
Information Board statewide policies for information technology.



622446

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete lines 471 - 490
and insert:

(c) Include in its legislative budget requests a
recommendation for consolidating state agency data in order to
provide better access for private and government use.

(d) Oversee the expanded use and implementation of project
and contract management principles as they relate to information
technology projects. Funded projects within state agencies must
use the project and contract management methodologies specified
by the department.



622446

13 (2) Beginning January 1, 2016, the department shall:

14 (a) Develop systems and methodologies to review, evaluate,
15 and prioritize existing information technology projects and
16 develop a plan for leveraging technology across state agencies.
17 The department shall report to the Governor, the President of
18 the Senate, and the Speaker of the House of Representatives on
19 the status of information technology projects and the agency's
20 recommendations for project development on a semiannual basis.
21 Such recommendations shall be incorporated into the state
22 agency's legislative budget requests for technology projects.



964212

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment to Amendment (622446)

Delete line 7
and insert:
provide better access for private and government use. The
Department of Law Enforcement is exempt from data center
consolidation initiatives under this section.



538946

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete line 499
and insert:
Section 6. Section 282.201, Florida Statutes, is repealed.
Section 7. Paragraphs (c), (e), (h), (i), and (m) of
subsection
Between lines 591 and 592
insert:
(m) Assume administrative access rights to the resources



538946

and equipment, such as servers, network components, and other devices that are consolidated into the primary data center.

1. Upon the date of each consolidation specified in ~~s. 282.201~~, the General Appropriations Act, or the Laws of Florida, each agency shall relinquish all administrative access rights to such resources and equipment.

2. Each primary data center shall provide its customer agencies with the appropriate level of access to applications, servers, network components, and other devices necessary for agencies to perform their core business activities and functions.

Between lines 1610 and 1611
insert:

Section 41. Subsection (2) of section 1006.73, Florida Statutes, is amended to read:

1006.73 Florida Virtual Campus.—

(2) The chancellors of the Florida College System and the State University System shall exercise joint oversight of the Florida Virtual Campus and shall establish its governance and reporting structure, administrative and operational guidelines and processes, staffing requirements, and operational budget. All data center services needed by the Florida Virtual Campus shall be provided by a primary data center established pursuant to s. ss. 282.201 and 1004.649.

(a) In carrying out the purposes of this section:

1. The campus is not an "agency" as defined in s. 20.03(11) and is not subject to chapter 287.

2. The campus shall be deemed to be acting as an



538946

instrumentality of the state for purposes of sovereign immunity pursuant to s. 768.28(2).

3. All records of the campus are public records unless made confidential or exempt from law.

(b) The campus shall maintain an unencumbered balance of not less than 5 percent of its approved operating budget.

(c) The campus may secure comprehensive general liability coverage, professional liability coverage, property and casualty coverage, and any other insurance coverage deemed appropriate by the chancellors.

(d) The campus may contract for administrative services with a public postsecondary education institution. The administrative overhead costs charged by the institution may not exceed the actual cost of providing the services and shall require a specific appropriation in the General Appropriations Act.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 17

and insert:

completed; repealing s. 282.201, relating to the state data center system; amending s. 282.203, F.S.; conforming

Delete line 42

and insert:

445.011, 445.045, 668.50, and 1006.73, F.S.; conforming



146614

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Between lines 1044 and 1045
insert:

Section 20. Subsection (2) of section 215.96, Florida
Statutes, is amended to read:

215.96 Coordinating council and design and coordination
staff.—

(2) The coordinating council shall consist of the Chief
Financial Officer; the Commissioner of Agriculture; the Attorney
General; the secretary of the Department of Management Services;
the Secretary of the Department of State Technology ~~the Attorney~~



146614

~~General~~; and the Director of Planning and Budgeting, Executive Office of the Governor, or their designees. The Chief Financial Officer, or his or her designee, shall be chair of the coordinating council, and the design and coordination staff shall provide administrative and clerical support to the council and the board. The design and coordination staff shall maintain the minutes of each meeting and ~~shall~~ make such minutes available to any interested person. The Auditor General, the State Courts Administrator, an executive officer of the Florida Association of State Agency Administrative Services Directors, and an executive officer of the Florida Association of State Budget Officers, or their designees, shall serve without voting rights as ex officio members of ~~on~~ the ~~coordinating~~ council. The chair may call meetings of the ~~coordinating~~ council as often as necessary to transact business; however, the ~~coordinating~~ council must ~~shall~~ meet at least once a year. Action of the coordinating council shall be by motion, duly made, seconded and passed by a majority of the ~~coordinating~~ council voting in the affirmative for approval of items that are to be recommended for approval to the Financial Management Information Board.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 39

and insert:

215.322, 215.96, 216.292, 287.012, 287.057, 318.18,
320.0802,



375648

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete lines 1621 - 1733
and insert:

Section 41. Transfer from the Department of Management
Services.—Effective January 1, 2014:

(1) The Technology Program established under s. 20.22(2),
Florida Statutes, is transferred intact by a type one transfer,
as defined in s. 20.06, Florida Statutes, from the Department of
Management Services to the Department of State Technology.

(2) All of the powers, duties, functions, records,
personnel, and property; funds, trust funds, and unexpended



375648

balances of appropriations, allocations, and other funds;
administrative authority; administrative rules; pending issues;
and existing contracts relating to the following
responsibilities of the Department of Management Services are
transferred by a type one transfer, as defined in s.20.06, to
the Department of State Technology:

(a) Administrative and regulatory responsibilities under
part II of chapter 282, Florida Statutes, consisting of ss.
282.601-282.606, Florida Statutes, relating to accessibility of
electronic information and information technology for state
employees and members of the public with disabilities, including
the responsibility for rules for the development, procurement,
maintenance, and use of accessible electronic information
technology by governmental units pursuant to s. 282.604, Florida
Statutes.

(b) Administrative and regulatory responsibilities under
part III of chapter 282, Florida Statutes, consisting of ss.
282.701-282.711, Florida Statutes, relating to the state
telecommunications network, state communications,
telecommunications services with state agencies and political
subdivisions of the state, the SUNCOM network, the law
enforcement radio system and interoperability network, regional
law enforcement communications, and remote electronic access.

(c) Administrative and regulatory responsibilities under s.
364.0135, Florida Statutes, relating to broadband Internet
service.

(d) Administrative and regulatory responsibilities under
ss. 365.171-365.175, Florida Statutes, relating to emergency
communications number E911.



375648

42 (e) Administrative and regulatory responsibilities under
43 part I of chapter 401, Florida Statutes, consisting of ss.
44 401.013-401.027, Florida Statutes, relating to a statewide
45 system of regional emergency medical telecommunications.

46 (3) (a) The following trust funds are transferred by a type
47 one transfer, as defined in s. 20.06(1), Florida Statutes, from
48 the Department of Management Services to the Department of State
49 Technology:

- 50 1. The Communications Working Capital Trust Fund.
51 2. The Emergency Communications Number E911 System Fund.
52 3. The State Agency Law Enforcement Radio System Trust
53 Fund.
54 4. Federal Grants Trust Fund.

55 (b) All unexpended balances of appropriations, allocations,
56 and other funds of the Department of Management Services
57 relating to ss. 282.701-282.711, s. 364.0135, ss. 365.171-
58 365.175, and part I of chapter 401, Florida Statutes, which are
59 not specifically transferred by this subsection are transferred
60 by a type one transfer, as defined in s. 20.06(1), Florida
61 Statutes, to the Department of State Technology.

62 (4) All lawful orders issued by the Department of
63 Management Services implementing or enforcing or otherwise in
64 regard to ss. 282.701-282.711, s. 364.0135, ss. 365.171-365.175,
65 or part I of chapter 401, Florida Statutes, issued before
66 January 1, 2014, shall remain in effect and be enforceable after
67 that date unless thereafter modified in accordance with law.

68 (5) Any binding contract or interagency agreement entered
69 into pursuant to ss. 282.701-282.711, s. 364.0135, ss. 365.171-
70 365.175, or part I of chapter 401, Florida Statutes, and



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71 existing before January 1, 2014, between the Department of
72 Management Services or an entity or agent of the department and
73 any other agency, entity, or person shall continue as a binding
74 contract or agreement for the remainder of the term of such
75 contract or agreement on the Department of State Technology.

76 (6) The rules of the Department of Management Services
77 relating to ss. 282.701-282.711, s. 364.0135, ss. 365.171-
78 365.175, or part I of chapter 401, Florida Statutes, that were
79 in effect at 11:59 p.m. on December 31, 2013, shall become the
80 rules of the Department of State Technology and remain in effect
81 until amended or repealed in the manner provided by law.

82 (7) The transfer of regulatory authority under ss. 282.701-
83 282.711, s. 364.0135, ss. 365.171-365.175, or part I of chapter
84 401, Florida Statutes, provided by this section does not affect
85 the validity of any judicial or administrative action pending as
86 of 11:59 p.m. on December 31, 2013, to which the Department of
87 Management Services is at that time a party, and the Department
88 of State Technology shall be substituted as a party in interest
89 in any such action.

90 (8) The Northwood Shared Resource Center is transferred by
91 a type one transfer, as defined in s. 20.06, Florida Statutes,
92 from the Department of Management Services to the Department of
93 State Technology.

94 (a) Any binding contract or interagency agreement entered
95 into between the Northwood Shared Resource Center or an entity
96 or agent of the center and any other agency, entity, or person
97 shall continue as a binding contract or agreement for the
98 remainder of the term of such contract or agreement on the
99 Department of State Technology.



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100 (b) The rules of the Northwood Shared Resource Center that
101 were in effect at 11:59 p.m. on December 31, 2013, shall become
102 the rules of the Department of State Technology and shall remain
103 in effect until amended or repealed in the manner provided by
104 law.

105 (9) The Southwood Shared Resource Center is transferred by
106 a type one transfer, as defined in s. 20.06, Florida Statutes,
107 from the Department of Management Services to the Department of
108 State Technology.

109 (a) Any binding contract or interagency agreement entered
110 into between the Southwood Shared Resource Center or an entity
111 or agent of the center and any other agency, entity, or person
112 shall continue as a binding contract or agreement for the
113 remainder of the term of such contract or agreement on the
114 Department of State Technology.

115 (b) The rules of the Southwood Shared Resource Center that
116 were in effect at 11:59 p.m. on December 31, 2013, shall become
117 the rules of the Department of State Technology and shall remain
118 in effect until amended or repealed in the manner provided by
119 law.

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

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1 A bill to be entitled
 2 An act relating to state technology; transferring,
 3 renumbering, and amending s. 14.204, F.S.; creating
 4 the Department of State Technology; providing for the
 5 organizational structure of the department; creating a
 6 Technology Advisory Council and providing for
 7 membership; amending s. 282.0041, F.S.; revising and
 8 providing definitions for terms used in the Enterprise
 9 Information Technology Services Management Act;
 10 amending s. 282.0055, F.S.; requiring the department
 11 to develop a long-range plan; providing the powers and
 12 duties of the department; amending s. 282.0056, F.S.;
 13 conforming provisions to changes made by the act;
 14 creating s. 282.0057, F.S.; providing a schedule for
 15 the initiation of department information technology
 16 projects; specifying tasks to be approved and
 17 completed; amending s. 282.203, F.S.; conforming
 18 provisions to changes made by the act; providing for
 19 future repeal; repealing s. 282.204, F.S., relating to
 20 Northwood Shared Resource Center; repealing s.
 21 282.205, F.S., relating to Southwood Shared Resource
 22 Center; creating s. 282.206, F.S.; establishing the
 23 Fletcher Shared Resource Center within the Department
 24 of Financial Services to provide enterprise
 25 information technology services to the department, co-
 26 location services to the Department of Legal Services
 27 and the Department of Agriculture and Consumer
 28 Services, and host the Legislative Appropriations
 29 System/Planning and Budgeting Subsystem; providing for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 governance of the center; authorizing the Department
 31 of Legal Affairs and the Department of Agriculture and
 32 Consumer Services to move data center equipment to the
 33 center; amending s. 282.318, F.S.; conforming
 34 provisions to changes made by the act; repealing s.
 35 282.33, F.S., relating to objective standards for data
 36 center energy efficiency; repealing s. 282.34, F.S.,
 37 relating to enterprise email service; amending ss.
 38 282.604, 282.702, 282.703, 20.22, 110.205, 215.22,
 39 215.322, 216.292, 287.012, 287.057, 318.18, 320.0802,
 40 328.72, 364.0135, 365.171, 365.172, 365.173, 365.174,
 41 401.013, 401.015, 401.018, 401.021, 401.024, 401.027,
 42 445.011, 445.045, and 668.50, F.S.; conforming
 43 provisions to changes made by the act; transferring
 44 the personnel, functions, and funds of the Agency for
 45 Enterprise Information Technology to the Department of
 46 State Technology; transferring specified personnel,
 47 functions, funds, trust funds, administrative orders,
 48 contracts, and rules relating to technology programs
 49 from the Department of Management Services to the
 50 Department of State Technology; transferring the
 51 Northwood Shared Resource Center and the Southwood
 52 Shared Resource Center to the department; providing an
 53 appropriation; providing effective dates.

54
 55 Be It Enacted by the Legislature of the State of Florida:

56
 57 Section 1. Section 14.204, Florida Statutes, is
 58 transferred, renumbered as section 20.61, Florida Statutes, and

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59 amended to read:

60 (Substantial rewording of section. See
 61 s. 14.204, F.S. for present text)

62 20.61 Department of State Technology; powers and duties.--

63 The Department of State Technology is hereby created as an
 64 executive agency under the Governor.

65 (1) The department shall have a secretary, who shall be
 66 appointed by the Governor. The secretary must be confirmed by
 67 the Senate and shall serve at the pleasure of the Governor. The
 68 secretary shall be the state's Chief Information Officer.

69 (2) The Technology Advisory Council consisting of nine
 70 members shall be established and maintained pursuant to s.
 71 20.052. Four of the members of the council shall be appointed by
 72 the Governor, of which two members must be from the private
 73 sector; three of the members shall be appointed by the Cabinet;
 74 one of the members shall be appointed by the Speaker of the
 75 House of Representative; and one member shall be appointed by
 76 the Senate President. Upon initial establishment of the council,
 77 two of the Governor's appointments and two of the Cabinet's
 78 appointments shall be for 2 year terms. Thereafter, all
 79 appointments shall be for 4 year terms.

80 (a) The council shall consider and make recommendations to
 81 the secretary on such matters as enterprise information
 82 technology policies, standards, services, and architecture.

83 (b) The secretary shall consult with the council with
 84 regard to executing the duties and responsibilities of the
 85 department related to statewide information technology strategic
 86 planning and policy.

87 (3) The following divisions and offices are established

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88 within the department:

89 (a) Division of Information Management.

90 (b) Division of Enterprise Information Technology Services.

91 (c) The Office Of Information Security.

92 (d) The Office of Strategic Planning.

93 (4) There shall be a Chief Operations Officer, a Chief
 94 Planning Officer, a Chief Security Officer, and a Deputy Chief
 95 Information Officer all of whom serve at the pleasure of the
 96 secretary.

97 (a) The Chief Operations Officer is responsible for the
 98 operations and delivery of enterprise information technology
 99 services including management of telecommunication services and
 100 data center operations.

101 (b) The Chief Planning Officer is responsible for
 102 establishing and maintaining enterprise information technology
 103 policy, planning, standards, project management, oversight, and
 104 procurement.

105 (c) The Chief Security Officer is responsible for
 106 establishing and maintaining the enterprise strategy and program
 107 for ensuring information assets are adequately protected.

108 (d) The Deputy Chief Information Officer is responsible for
 109 establishing and maintaining the enterprise strategy for
 110 enterprise information technology services.

111 (5) The following deputy Chief Information Officer
 112 positions shall be appointed and serve at the pleasure of the
 113 secretary. Each deputy is responsible for the following core
 114 agency groups:

115 (a) Deputy Information Officer of Human Services, to
 116 include:

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- 117 1. Department of Elder Affairs.
 118 2. Agency for Health Care Administration.
 119 3. Agency for Persons with Disabilities.
 120 4. Department of Children and Families.
 121 5. Department of Health.
 122 6. Department of Veterans' Affairs.
 123 (b) Deputy Information Officer of Criminal and Civil
 124 Justice, to include:
 125 1. Department of Juvenile Justice.
 126 2. Parole Commission.
 127 3. Department of Corrections.
 128 4. Board of Clemency.
 129 5. Department of Law Enforcement.
 130 6. Department of Highway Safety and Motor Vehicles.
 131 (c) Deputy Information Officer of Education, to include
 132 the:
 133 1. Department of Education.
 134 2. State Board of Education.
 135 3. Board of Governors.
 136 (d) Deputy Information Officer of Business Operations, to
 137 include:
 138 1. Department of Revenue.
 139 2. Department of Business and Professional Regulation.
 140 3. Department of the Lottery.
 141 4. Department of Economic Opportunity.
 142 (e) Deputy Information Officer of Community Services, to
 143 include:
 144 1. Department of Military Affairs.
 145 2. Department of Transportation.

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- 146 3. Department of State.
 147 4. Department of Emergency Management.
 148 (f) Deputy Information Officer of Natural Resources, to
 149 include:
 150 1. Department of Environmental Protection.
 151 2. Department of Fish and Wildlife.
 152 3. Department of Citrus.
 153 (g) Deputy Information Officer of Executive and
 154 Administrative Support Service, to include:
 155 1. The Department of Financial Services.
 156 2. The Department of Management Services.
 157 3. The Department of Legal Affairs.
 158 4. The Department of Agriculture and Consumer Services.
 159 (6) In order to optimize the efficiency and utility of
 160 information technology systems within core agency groups, the
 161 secretary may require the participation of programs within a
 162 state agency to work with a deputy chief information officer
 163 outside of the agency's assigned core group.
 164 (7) The secretary may obtain administrative services
 165 through the Department of Management Services pursuant to a
 166 memorandum of understanding.
 167 Section 2. Section 282.0041, Florida Statutes, is reordered
 168 and amended to read:
 169 282.0041 Definitions.—As used in this chapter, the term:
 170 ~~(1) "Agency" has the same meaning as in s. 216.011(1)(qq),~~
 171 ~~except that for purposes of this chapter, "agency" does not~~
 172 ~~include university boards of trustees or state universities.~~
 173 ~~(2) "Agency for Enterprise Information Technology" means~~
 174 ~~the agency created in s. 14.204.~~

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175 ~~(1)(3)~~ "Agency information technology service" means a
 176 service that directly helps a state ~~an~~ agency fulfill its
 177 statutory or constitutional responsibilities and policy
 178 objectives and is usually associated with the state agency's
 179 primary or core business functions.

180 ~~(4) "Annual budget meeting" means a meeting of the board of~~
 181 ~~trustees of a primary data center to review data center usage to~~
 182 ~~determine the apportionment of board members for the following~~
 183 ~~fiscal year, review rates for each service provided, and~~
 184 ~~determine any other required changes.~~

185 ~~(2)(5)~~ "Breach" has the same meaning as in s. 817.5681(4).

186 ~~(3)(6)~~ "Business continuity plan" means a plan for disaster
 187 recovery which provides for the continued functioning of a
 188 shared resource center or primary data center during and after a
 189 disaster.

190 ~~(4)(7)~~ "Computing facility" means a state agency site ~~space~~
 191 containing fewer than ~~a total of~~ 10 physical or logical servers,
 192 any of which supports a strategic or nonstrategic information
 193 technology service, as described in budget instructions
 194 developed pursuant to s. 216.023, but excluding
 195 telecommunications and voice gateways and clustered pairs of
 196 servers operating as a single logical server to provide file,
 197 print, security, and endpoint management services ~~single,~~
 198 ~~logical server installations that exclusively perform a utility~~
 199 ~~function such as file and print servers.~~

200 ~~(5)~~ "Computing service" means an information technology
 201 service that is used in all state agencies or a subset of
 202 agencies.

203 ~~(8) "Customer entity" means an entity that obtains services~~

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204 ~~from a primary data center.~~

205 ~~(6)(9)~~ "Data center" means state agency space containing 10
 206 or more physical or logical servers, any of which supports a
 207 strategic or nonstrategic information technology service, as
 208 described in budget instructions developed pursuant to s.
 209 216.023.

210 ~~(7)(10)~~ "Department" means the Department of State
 211 Technology Management Services.

212 ~~(9)(11)~~ "Enterprise information technology service" means
 213 an information technology service that is used in all state
 214 agencies or a subset of state agencies and is established in law
 215 to be designed, delivered, and managed at the enterprise level.

216 ~~(8)(12)~~ "Email ~~E-mail~~, messaging, and calendaring service"
 217 means the enterprise information technology service that enables
 218 users to send, receive, file, store, manage, and retrieve
 219 electronic messages, attachments, appointments, and addresses.
 220 ~~The e-mail, messaging, and calendaring service must include e-~~
 221 ~~mail account management, help desk, technical support and user~~
 222 ~~provisioning services, disaster recovery and backup and restore~~
 223 ~~capabilities, antispam and antivirus capabilities, archiving and~~
 224 ~~e-discovery, and remote access and mobile messaging~~
 225 ~~capabilities.~~

226 ~~(10)(13)~~ "Information-system utility" means an information
 227 processing a full-service information processing facility
 228 offering hardware, software, operations, integration,
 229 networking, floor space, and consulting services.

230 ~~(12)(14)~~ "Information technology resources" means
 231 equipment, hardware, software, firmware, programs, systems,
 232 networks, infrastructure, media, and related material used to

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233 automatically, electronically, and wirelessly collect, receive,
 234 access, transmit, display, store, record, retrieve, analyze,
 235 evaluate, process, classify, manipulate, manage, assimilate,
 236 control, communicate, exchange, convert, converge, interface,
 237 switch, or disseminate information of any kind or form, and
 238 includes the human resources to perform such duties except for
 239 application developers and logical database administrators.

240 (11)(15) "Information technology policy" means statements
 241 that describe clear choices for how information technology will
 242 deliver effective and efficient government services to residents
 243 and improve state agency operations. A policy may relate to
 244 investments, business applications, architecture, or
 245 infrastructure. A policy describes its rationale, implications
 246 of compliance or noncompliance, the timeline for implementation,
 247 metrics for determining compliance, and the accountable
 248 structure responsible for its implementation.

249 (13) "Local area network" means any telecommunications
 250 network through which messages and data are exchanged only
 251 within a single building or contiguous campus.

252 (14) "Memorandum of understanding" means a written
 253 agreement between the department and a state agency which
 254 specifies the scope of services provided, service level,
 255 duration of the agreement, responsible parties, and service
 256 costs. A memorandum of understanding is not a rule pursuant to
 257 chapter 120.

258 (15) "Other public sector organizations" means entities of
 259 the legislative and judicial branches, the State University
 260 System, the Florida Community College System, counties, and
 261 municipalities. Such organizations may elect to participate in

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262 the information technology programs, services, or contracts
 263 offered by the department, including information technology
 264 procurement, in accordance with general law, policies, and
 265 administrative rules.

266 ~~(16) "Performance metrics" means the measures of an~~
 267 ~~organization's activities and performance.~~

268 (16)(17) "Primary data center" means a data center that is
 269 a recipient entity ~~for consolidation of state agency information~~
 270 technology resources and provides contracted services to the
 271 agency nonprimary data centers and computing facilities and that
 272 is established by law.

273 (17)(18) "Project" means an endeavor that has a defined
 274 start and end point; is undertaken to create or modify a unique
 275 product, service, or result; and has specific objectives that,
 276 when attained, signify completion.

277 (18)(19) "Risk analysis" means the process of identifying
 278 security risks, determining their magnitude, and identifying
 279 areas needing safeguards.

280 (19)(20) "Service level" means the key performance
 281 indicators (KPI) of an organization or service which must be
 282 regularly performed, monitored, and achieved.

283 ~~(21) "Service level agreement" means a written contract~~
 284 ~~between a data center and a customer entity which specifies the~~
 285 ~~scope of services provided, service level, the duration of the~~
 286 ~~agreement, the responsible parties, and service costs. A~~
 287 ~~service level agreement is not a rule pursuant to chapter 120.~~

288 (20) "Shared resource center" means a primary data center
 289 that is state controlled.

290 (21)(22) "Standards" means required practices, controls,

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components, or configurations established by an authority.

(22) "State agency" has the same meaning as in s. 216.011(1), but excluding the Department of Legal Affairs, the Department of Financial Services, and the Department of Agriculture and Consumer Services.

(23) "State agency site" means a single, contiguous local area network segment that does not traverse a metropolitan area network or wide area network.

(24)~~(23)~~ "SUNCOM Network" means the state enterprise telecommunications system that provides all methods of electronic or optical telecommunications beyond a single building or contiguous building complex and used by entities authorized as network users under this part.

(25)~~(24)~~ "Telecommunications" means the science and technology of communication at a distance, including electronic systems used in the transmission or reception of information.

(26)~~(25)~~ "Threat" means any circumstance or event that may cause harm to the integrity, availability, or confidentiality of information technology resources.

(27)~~(26)~~ "Total cost" means all costs associated with information technology projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to a state ~~an~~ agency includes the fair market value of the resources.

(28)~~(27)~~ "Usage" means the billing amount charged by the shared resource primary data center, minus less any pass-through charges, to the customer entity.

(29)~~(28)~~ "Usage rate" means a customer entity's usage or

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billing amount as a percentage of total usage.

(30) "Wide area network" means a telecommunications network or components thereof through which messages and data are exchanged outside of a local area network.

Section 3. Section 282.0055, Florida Statutes, is amended to read:

282.0055 Assignment of information technology; long-range plan; powers and duties.—The department shall design, plan, develop, implement, and manage state enterprise information technology services and infrastructure to achieve the use of cost-effective and cost-efficient common technology. In order to ensure the most effective and efficient use of the state's information technology and information technology resources and notwithstanding other provisions of law to the contrary, policies for the design, planning, project management, and implementation of enterprise information technology services shall be the responsibility of the Agency for Enterprise Information Technology for executive branch agencies created or authorized in statute to perform legislatively delegated functions. The supervision, design, delivery, and management of state agency information technology shall remain within the responsibility and control of the individual state agency.

(1) To assist with achieving this purpose, the department shall biennially develop and coordinate a comprehensive long-range plan for the state's information technology resources, including opportunities for coordinating with other public-sector organizations; ensuring the proper management of such resources; developing agency budget requests for submission to the Legislature; and delivering enterprise information

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349 technology services. In developing the plan, the department
350 shall identify best practices from executive branch agencies and
351 other public and private sector entities in order to develop,
352 replicate, and implement such information technology best
353 practices and standards into the state's technology services and
354 infrastructure.

355 (2) The department shall have the following powers and
356 duties:

357 (a) Setting state technology policy.

358 (b) The development, design, planning, project management,
359 implementation, delivery, and management of enterprise
360 information technology services.

361 (c) Establishing architecture for the state's technology
362 infrastructure in order to promote the efficient use of
363 resources and to promote economic development.

364 (d) Preparing fiscal impact statements relating to
365 necessary modifications and the delivery of technology to
366 support policies required by proposed legislation.

367 (e) Coordinating technology resource acquisition planning,
368 and assisting the Department of Management Services' Division of
369 Purchasing in using aggregate buying methodologies whenever
370 possible and with procurement negotiations for hardware and
371 software products and services in order to improve the
372 efficiency and reduce the cost of enterprise information
373 technology services.

374 (f) Upon request, advising, supporting, and collaborating
375 with the Division of Purchasing in the Department of Management
376 Services, in establishing best practices for the procurement of
377 information technology products in order to achieve savings for

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378 the state.

379 (g) Upon request, supporting and collaborating with the
380 Division of Purchasing in the Department of Management Services,
381 in conducting procurement negotiations for information
382 technology products that will be used by multiple state
383 agencies.

384 (h) Providing oversight or program management for all
385 technology resources for projects exceeding an annual investment
386 of \$2.5 million to accomplish goals of technology portfolio
387 management.

388 (i) Establishing performance measurement standards and
389 metrics regarding the success of technology projects and
390 services across the enterprise.

391 (j) Establishing standards for state agencies to submit
392 information technology reports or updates as necessary to
393 support the duties of the agency. At a minimum, such standards
394 must address content, format, and frequency of updates.

395 (k) Establishing and collecting fees and charges for data
396 and delivery of enterprise information technology services to
397 state agencies on a cost-sharing basis.

398 (l) Developing a cost-recovery plan to recover both the
399 costs and the accrual of funds sufficient for reinvesting in new
400 services and better technologies. This plan shall be developed
401 in consultation with state agencies and approved by the
402 Legislature.

403 (m) At the discretion of the department, collecting and
404 maintaining an inventory of the information technology resources
405 in state agencies and the data maintained by each agency. The
406 department may develop standards for data elements.

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(n) Assuming ownership or custody and control of information processing equipment, supplies, and positions in order to thoroughly carry out the duties and responsibilities of the department.

(o) Adopting rules and policies for the efficient, secure, and economical management and operation of enterprise information technology services.

(p) Providing other public sector organizations with access to the services provided by the agency taking into consideration the agency's ability to support those services. Access shall be provided on the same cost basis as applies to state agencies.

(q) Establishing statewide practices and policies to ensure that data that is exempt or confidential from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, or that is otherwise confidential under state or federal law remains protected. This provision does not affect a transfer of ownership of data from any department, agency, board, bureau, commission, or authority to the state agency.

(r) Conducting periodic assessments of state agencies for compliance with statewide information technology policies and recommending to the Governor or the Financial and Accounting Technology Services Board statewide policies for information technology.

(s) Establishing and maintaining a single website publishing information as provided in s. 215.985.

(t) Maintaining the official Internet state portal.

Section 4. Subsection (1) of section 282.0056, Florida Statutes, is amended to read:

282.0056 Development of work plan; development of

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implementation plans; and policy recommendations.—

(1) For the purposes of carrying out its responsibilities under s. 282.0055, the ~~department~~ Agency for Enterprise Information Technology shall develop an annual work plan within 60 days after the beginning of the fiscal year describing the activities that the ~~department~~ agency intends to undertake for that year, including proposed outcomes and completion timeframes for the planning and implementation of all enterprise information technology services. The work plan must be presented at a public hearing and approved by the Governor ~~and Cabinet~~, and thereafter submitted to the President of the Senate and the Speaker of the House of Representatives. The work plan may be amended as needed, subject to approval by the Governor ~~and Cabinet~~.

Section 5. Section 282.0057 Florida Statutes, is created to read:

282.0057 Information technology project initiation schedule; reporting.—

(1) Beginning January 1, 2015, the department shall:

(a) In cooperation with the Governor's Office of Policy and Budget, publish a report on its current and planned information technology expenditures, including, but not limited to, line-item detail expenditures on systems development, personnel services, and equipment from the previous fiscal year and anticipated expenditures for the upcoming fiscal year; a prioritization of information technology initiatives to address unmet needs and opportunities for significant efficiencies or improved effectiveness within the state information technology enterprise; and a prioritized funding schedule for all major

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465 projects or initiatives, as well as cost estimates of the fiscal
466 impact of the recommended initiatives.

467 (b) Coordinate state agencies in developing and
468 implementing data sharing. The department shall determine and
469 implement statewide efforts to standardize data elements and
470 shall determine data ownership assignments among state agencies.

471 (c) Upon approval of the Governor, include in its
472 legislative budget requests a recommendation for consolidating
473 state agency data to provide better access for private and
474 government use.

475 (d) Oversee the expanded use and implementation of project
476 and contract management principles as they relate to information
477 technology projects. Funded projects within state agencies must
478 use the project and contract management methodologies specified
479 by the department.

480 (2) Beginning January 1, 2016, the department shall:

481 (a) Develop systems and methodologies to review, evaluate
482 and prioritize existing information technology projects and a
483 plan for leveraging technology across state agencies. The
484 department shall report to the Governor, the President of the
485 Senate, and the Speaker of the House of Representatives on the
486 status of information technology projects and the agency's
487 recommendations for project development on a semi-annual basis.
488 Upon approval of the Governor, such recommendations shall be
489 incorporated into the state agency's legislative budget requests
490 for technology projects.

491 (b) Develop standards for application development,
492 including, but not limited to, a standard methodology and cost-
493 benefit analysis that state agencies shall use for application

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494 development activities.

495 (3) Beginning January 1, 2018, the department shall review
496 and approve technology purchases made by state agencies.
497 Approval must be based on technology policies and standards
498 established by the department and approved by the Legislature.

499 Section 6. Paragraphs (c), (e), (h), and (i) of subsection
500 (1), paragraph (e) of subsection (2), and paragraphs (b), (e),
501 (h), and (k) of subsection (3) of section 282.203, Florida
502 Statutes, are amended and a new subsection (4) is added to that
503 section, to read:

504 282.203 Primary data centers.—

505 (1) DATA CENTER DUTIES.—Each primary data center shall:

506 (c) Comply with rules adopted by the ~~department~~ Agency for
507 ~~Enterprise Information Technology~~, pursuant to this section, and
508 coordinate with the agency in the consolidation of data centers.

509 (e) Provide transparent financial statements to customer
510 entities and the ~~department~~ Agency for Enterprise Information
511 ~~Technology~~. The financial statements shall be provided as
512 follows:

513 1. Annually, by July 30 for the current fiscal year and by
514 December 1 for the subsequent fiscal year, the data center must
515 provide the total annual budgeted costs by major expenditure
516 category, including, but not limited to, salaries, expense,
517 operating capital outlay, contracted services, or other
518 personnel services, which directly relate to the provision of
519 each service and which separately indicate the administrative
520 overhead allocated to each service.

521 2. Annually, by July 30 for the current fiscal year and by
522 December 1 for the subsequent fiscal year, the data center must

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provide total projected billings for each customer entity which are required to recover the costs of the data center.

3. Annually, by January 31, the data center must provide updates of the financial statements required under subparagraphs 1. and 2. for the current fiscal year.

The financial information required under subparagraphs 1., 2., and 3. must be based on current law and current appropriations.

(h) Develop a business continuity plan and conduct a live exercise of the plan at least annually. The plan must be approved by the board and the department ~~Agency for Enterprise Information Technology~~.

(i) Enter into a service-level agreement with each customer entity to provide services as defined and approved by the board. A service-level agreement may not have a term exceeding 3 years but may include an option to renew for up to 3 years contingent on approval by the board.

1. A service-level agreement, at a minimum, must:

a. Identify the parties and their roles, duties, and responsibilities under the agreement.

b. Identify the legal authority under which the service-level agreement was negotiated and entered into by the parties.

c. State the duration of the contractual term and specify the conditions for contract renewal.

d. Prohibit the transfer of computing services between primary data center facilities without at least 180 days' notice of service cancellation.

e. Identify the scope of work.

f. Identify the products or services to be delivered with

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sufficient specificity to permit an external financial or performance audit.

g. Establish the services to be provided, the business standards that must be met for each service, the cost of each service, and the process by which the business standards for each service are to be objectively measured and reported.

h. Identify applicable funds and funding streams for the services or products under contract.

i. Provide a timely billing methodology for recovering the cost of services provided to the customer entity.

j. Provide a procedure for modifying the service-level agreement to address changes in projected costs of service.

k. Provide that a service-level agreement may be terminated by either party for cause only after giving the other party and the department ~~Agency for Enterprise Information Technology~~ notice in writing of the cause for termination and an opportunity for the other party to resolve the identified cause within a reasonable period.

1. Provide for mediation of disputes by the Division of Administrative Hearings pursuant to s. 120.573.

2. A service-level agreement may include:

a. A dispute resolution mechanism, including alternatives to administrative or judicial proceedings;

b. The setting of a surety or performance bond for service-level agreements entered into with agency primary data centers established by law; or

c. Additional terms and conditions as determined advisable by the parties if such additional terms and conditions do not conflict with the requirements of this section or rules adopted

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by the department ~~Agency for Enterprise Information Technology~~.

3. The failure to execute a service-level agreement within 60 days after service commencement shall, in the case of an existing customer entity, result in a continuation of the terms of the service-level agreement from the prior fiscal year, including any amendments that were formally proposed to the customer entity by the primary data center within the 3 months before service commencement, and a revised cost-of-service estimate. If a new customer entity fails to execute an agreement within 60 days after service commencement, the data center may cease services.

(2) BOARD OF TRUSTEES.—Each primary data center shall be headed by a board of trustees as defined in s. 20.03.

(e) The executive director of the department ~~Agency for Enterprise Information Technology~~ shall be the advisor to the board.

(3) BOARD DUTIES.—Each board of trustees of a primary data center shall:

(b) Establish procedures for the primary data center to ensure that budgeting and accounting procedures, cost-recovery methodologies, and operating procedures are in compliance with laws governing the state data center system, rules adopted by the department ~~Agency for Enterprise Information Technology~~, and applicable federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.

(e) Ensure the sufficiency and transparency of the primary data center financial information by:

1. Establishing policies that ensure that cost-recovery methodologies, billings, receivables, expenditure, budgeting,

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and accounting data are captured and reported timely, consistently, accurately, and transparently and, upon adoption of rules by the department ~~Agency for Enterprise Information Technology~~, are in compliance with such rules.

2. Requiring execution of service-level agreements by the data center and each customer entity for services provided by the data center to the customer entity.

3. Requiring cost recovery for the full cost of services, including direct and indirect costs. The cost-recovery methodology must ensure that no service is subsidizing another service without an affirmative vote of approval by the customer entity providing the subsidy.

4. Establishing special assessments to fund expansions based on a methodology that apportions the assessment according to the proportional benefit to each customer entity.

5. Providing rebates to customer entities when revenues exceed costs and offsetting charges to those who have subsidized other customer entity costs based on actual prior year final expenditures. Rebates may be credited against future billings.

6. Approving all expenditures committing over \$50,000 in a fiscal year.

7. Projecting costs and revenues at the beginning of the third quarter of each fiscal year through the end of the fiscal year. If in any given fiscal year the primary data center is projected to earn revenues that are below costs for that fiscal year after first reducing operating costs where possible, the board shall implement any combination of the following remedies to cover the shortfall:

a. The board may direct the primary data center to adjust

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current year chargeback rates through the end of the fiscal year to cover the shortfall. The rate adjustments shall be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.

b. The board may direct the primary data center to levy one-time charges on all customer entities to cover the shortfall. The one-time charges shall be implemented using actual usage rate and billing data from the first three quarters of the fiscal year and the same principles used to set rates for the fiscal year.

c. The customer entities represented by each board member may provide payments to cover the shortfall in proportion to the amounts each entity paid in the prior fiscal year.

8. Providing a plan for consideration by the Legislative Budget Commission if a billing rate schedule is used after the start of the fiscal year which increases any agency's costs for that fiscal year.

(h) By July 1 of each year, submit to the ~~department~~ Agency for Enterprise Information Technology proposed cost-recovery mechanisms and rate structures for all customer entities for the fiscal year including the cost-allocation methodology for administrative expenditures and the calculation of administrative expenditures as a percent of total costs.

(k) Coordinate with other primary data centers and the ~~department~~ Agency for Enterprise Information Technology in order to consolidate purchases of goods and services and lower the cost of providing services to customer entities.

(4) REPEAL.—This section expires January 1, 2014.

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Section 7. Section 282.204, Florida Statutes, is repealed.

Section 8. Section 282.205, Florida Statutes, is repealed.

Section 9. Section 282.206, Florida Statutes, is created to read:

282.206 Fletcher Shared Resource Center.—The Fletcher Shared Resource Center is established within the Department of Financial Services.

(1) The center shall collaborate with the Department of State Technology to develop policies, procedures, standards, and rules for the delivery of enterprise information technology services.

(2) The center shall provide co-location services to the Department of Legal Affairs and the Department of Agriculture and Consumer Services if data center equipment is moved pursuant to subsections (5) or (6).

(3) The Department of Financial Services shall use the Fletcher Shared Resource Center, provide full service to the Office of Financial Regulation and the Office of Insurance Regulation, and provide co-location services to host the Legislative Appropriations System/Planning and Budgeting Subsystem (LAS/PBS).

(4) The center shall be governed through a master memorandum of understanding administered by a steering committee comprised of the chief information officers of the customer entities residing in the center. The steering committee shall meet quarterly in order to ensure that customers are receiving expected services in accordance with the memorandum of understanding and to discuss services and structure. The committee may create ad hoc workgroups to account for, mitigate,

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and manage any unforeseen issues.

(5) The Department of Legal Affairs may move its data center equipment to the center.

(6) The Department of Agriculture and Consumer Services may move its Mayo Building data center equipment to the center.

Section 10. Subsections (3) through (6) of section 282.318, Florida Statutes, are amended to read:

282.318 Enterprise security of data and information technology.—

(3) The department ~~Agency for Enterprise Information Technology~~ is responsible for establishing rules and publishing guidelines for ensuring an appropriate level of security for all data and information technology resources for executive branch agencies. The department ~~agency~~ shall also perform the following duties and responsibilities:

(a) Develop, and annually update by February 1, an enterprise information security strategic plan that includes security goals and objectives for the strategic issues of information security policy, risk management, training, incident management, and survivability planning.

(b) Develop enterprise security rules and published guidelines for:

1. Comprehensive risk analyses and information security audits conducted by state agencies.

2. Responding to suspected or confirmed information security incidents, including suspected or confirmed breaches of personal information or exempt data.

3. State agency security plans, including strategic security plans and security program plans.

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4. The recovery of information technology and data following a disaster.

5. The managerial, operational, and technical safeguards for protecting state government data and information technology resources.

(c) Assist state agencies in complying with the provisions of this section.

(d) Pursue appropriate funding for the purpose of enhancing domestic security.

(e) Provide training for state agency information security managers.

(f) Annually review the strategic and operational information security plans of state ~~executive branch~~ agencies.

(4) To assist the department ~~Agency for Enterprise Information Technology~~ in carrying out its responsibilities, each state agency head shall, at a minimum:

(a) Designate an information security manager to administer the security program of the agency for its data and information technology resources. This designation must be provided annually in writing to the department ~~Agency for Enterprise Information Technology~~ by January 1.

(b) Submit to the department ~~Agency for Enterprise Information Technology~~ annually by July 31, the agency's strategic and operational information security plans developed pursuant to the department's rules and guidelines ~~established by the Agency for Enterprise Information Technology~~.

1. The agency strategic information security plan must cover a 3-year period and define security goals, intermediate objectives, and projected agency costs for the strategic issues

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of agency information security policy, risk management, security training, security incident response, and survivability. The plan must be based on the enterprise strategic information security plan created by the ~~department Agency for Enterprise Information Technology~~. Additional issues may be included.

2. The state agency operational information security plan must include a progress report for the prior operational information security plan and a project plan that includes activities, timelines, and deliverables for security objectives that, subject to current resources, the state agency will implement during the current fiscal year. The cost of implementing the portions of the plan which cannot be funded from current resources must be identified in the plan.

(c) Conduct, and update every 3 years, a comprehensive risk analysis to determine the security threats to the data, information, and information technology resources of the state agency. The risk analysis information is confidential and exempt from ~~the provisions of~~ s. 119.07(1), except that such information shall be available to the Auditor General and the department Agency for Enterprise Information Technology for performing postauditing duties.

(d) Develop, and periodically update, written internal policies and procedures ~~that, which~~ include procedures for notifying the ~~department Agency for Enterprise Information Technology~~ when a suspected or confirmed breach, or an information security incident, occurs. Such policies and procedures must be consistent with the rules and guidelines established by the department Agency for Enterprise Information Technology to ensure the security of the data, information, and

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information technology resources of the state agency. The internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General and the ~~department Agency for Enterprise Information Technology~~ for performing post auditing ~~postauditing~~ duties.

(e) Implement appropriate cost-effective safeguards to address identified risks to the data, information, and information technology resources of the state agency.

(f) Ensure that periodic internal audits and evaluations of the agency's security program for the data, information, and information technology resources of the state agency are conducted. The results of such audits and evaluations are confidential ~~information~~ and exempt from s. 119.07(1), except that such information shall be available to the Auditor General and the ~~department Agency for Enterprise Information Technology~~ for performing post auditing ~~postauditing~~ duties.

(g) Include appropriate security requirements in the written specifications for the solicitation of information technology and information technology resources and services, which are consistent with the rules and guidelines established by the ~~department Agency for Enterprise Information Technology~~.

(h) Provide security awareness training to employees and users of the state agency's communication and information resources concerning information security risks and the responsibility of employees and users to comply with policies, standards, guidelines, and operating procedures adopted by the

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agency to reduce those risks.

(i) Develop a process for detecting, reporting, and responding to suspected or confirmed security incidents, including suspected or confirmed breaches consistent with the security rules and guidelines established by the department ~~Agency for Enterprise Information Technology~~.

1. Suspected or confirmed information security incidents and breaches must be immediately reported to the department ~~Agency for Enterprise Information Technology~~.

2. For incidents involving breaches, agencies shall provide notice in accordance with s. 817.5681 and to the department ~~Agency for Enterprise Information Technology~~ in accordance with this subsection.

(5) Each state agency shall include appropriate security requirements in the specifications for the solicitation of contracts for procuring information technology or information technology resources or services which are consistent with the rules and guidelines established by the department ~~Agency for Enterprise Information Technology~~.

(6) The department ~~Agency for Enterprise Information Technology~~ may adopt rules relating to information security and to administer the provisions of this section.

Section 11. Section 282.33, Florida Statutes, is repealed.

Section 12. Effective upon this act becoming law, section 282.34, Florida Statutes, is repealed.

Section 13. Section 282.604, Florida Statutes, is amended to read:

282.604 Adoption of rules.—The department ~~of Management Services~~ shall, with input from stakeholders, adopt rules

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~~pursuant to ss. 120.536(1) and 120.54~~ for the development, procurement, maintenance, and use of accessible electronic information technology by governmental units.

Section 14. Section 282.702, Florida Statutes, is amended to read:

282.702 Powers and duties.—The department ~~of Management Services~~ shall have the following powers, duties, and functions:

(1) To publish electronically the portfolio of services available from the department, including pricing information; the policies and procedures governing usage of available services; and a forecast of the department's priorities for each telecommunications service.

(2) To adopt technical standards by rule for the state telecommunications network which ensure the interconnection and operational security of computer networks, telecommunications, and information systems of agencies.

(3) To enter into agreements related to information technology and telecommunications services with state agencies and political subdivisions of the state.

(4) To purchase from or contract with information technology providers for information technology, including private line services.

(5) To apply for, receive, and hold authorizations, patents, copyrights, trademarks, service marks, licenses, and allocations or channels and frequencies to carry out the purposes of this part.

(6) To purchase, lease, or otherwise acquire and to hold, sell, transfer, license, or otherwise dispose of real, personal, and intellectual property, including, but not limited to,

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871 patents, trademarks, copyrights, and service marks.

872 (7) To cooperate with any federal, state, or local
873 emergency management agency in providing for emergency
874 telecommunications services.

875 (8) To control and approve the purchase, lease, or
876 acquisition and the use of telecommunications services,
877 software, circuits, and equipment provided as part of any other
878 total telecommunications system to be used by the state or its
879 agencies.

880 (9) To adopt rules ~~pursuant to ss. 120.536(1) and 120.54~~
881 relating to telecommunications and to administer the provisions
882 of this part.

883 (10) To apply for and accept federal funds for the purposes
884 of this part as well as gifts and donations from individuals,
885 foundations, and private organizations.

886 (11) To monitor issues relating to telecommunications
887 facilities and services before the Florida Public Service
888 Commission and the Federal Communications Commission and, if
889 necessary, prepare position papers, prepare testimony, appear as
890 a witness, and retain witnesses on behalf of state agencies in
891 proceedings before the commissions.

892 (12) Unless delegated to the state agencies by the
893 department, to manage and control, but not intercept or
894 interpret, telecommunications within the SUNCOM Network by:

895 (a) Establishing technical standards to physically
896 interface with the SUNCOM Network.

897 (b) Specifying how telecommunications are transmitted
898 within the SUNCOM Network.

899 (c) Controlling the routing of telecommunications within

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900 the SUNCOM Network.

901 (d) Establishing standards, policies, and procedures for
902 access to and the security of the SUNCOM Network.

903 (e) Ensuring orderly and reliable telecommunications
904 services in accordance with the service level agreements
905 executed with state agencies.

906 (13) To plan, design, and conduct experiments for
907 telecommunications services, equipment, and technologies, and to
908 implement enhancements in the state telecommunications network
909 if in the public interest and cost-effective. Funding for such
910 experiments must be derived from SUNCOM Network service revenues
911 and may not exceed 2 percent of the annual budget for the SUNCOM
912 Network for any fiscal year or as provided in the General
913 Appropriations Act. New services offered as a result of this
914 subsection may not affect existing rates for facilities or
915 services.

916 (14) To enter into contracts or agreements, with or without
917 competitive bidding or procurement, to make available, on a
918 fair, reasonable, and nondiscriminatory basis, property and
919 other structures under departmental control for the placement of
920 new facilities by any wireless provider of mobile service as
921 defined in 47 U.S.C. s. 153(27) or s. 332(d) and any
922 telecommunications company as defined in s. 364.02 if it is
923 practical and feasible to make such property or other structures
924 available. The department may, without adopting a rule, charge a
925 just, reasonable, and nondiscriminatory fee for the placement of
926 the facilities, payable annually, based on the fair market value
927 of space used by comparable telecommunications facilities in the
928 state. The department and a wireless provider or

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telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the department by the wireless provider or telecommunications company. All such fees collected by the department shall be deposited directly into the Law Enforcement Radio Operating Trust Fund, and may be used by the department to construct, maintain, or support the system.

(15) To establish policies that ensure that the department's cost-recovery methodologies, billings, receivables, expenditures, budgeting, and accounting data are captured and reported timely, consistently, accurately, and transparently and are in compliance with all applicable federal and state laws and rules. The department shall annually submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives ~~a report~~ that describes each service and its cost, the billing methodology for recovering the cost of the service, and, if applicable, the identity of those services that are subsidized.

Section 15. Subsections (4) and (5) of section 282.703, Florida Statutes, are amended to read:

282.703 SUNCOM Network; exemptions from the required use.—

(4) The department shall maintain a directory of information and services which provides the names, phone numbers, and email e-mail addresses for employees, state agencies, and network devices that are served, in whole or in part, by the SUNCOM Network. State agencies and political subdivisions of the state shall cooperate with the department by providing timely and accurate directory information in the manner established by the department.

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(5) All state agencies shall use the SUNCOM Network for state agency telecommunications services as the services become available; however, a state ~~an~~ agency is not relieved of responsibility for maintaining telecommunications services necessary for effective management of its programs and functions. The department may provide such communications services to a state university if requested by the university.

(a) If a SUNCOM Network service does not meet the telecommunications requirements of a state ~~an~~ agency, the state agency must notify the department in writing and detail the requirements for that service. If the department is unable to meet a state ~~an~~ agency's requirements by enhancing SUNCOM Network service, the department may grant the state agency an exemption from the required use of specified SUNCOM Network services.

(b) Unless an exemption has been granted by the department, effective October 1, 2010, all customers of a shared resource ~~state primary data~~ center, excluding state universities, must use the shared SUNCOM Network telecommunications services connecting the shared resource ~~state primary data~~ center to SUNCOM services for all telecommunications needs in accordance with department rules.

1. Upon discovery of customer noncompliance with this paragraph, the department shall provide the affected customer with a schedule for transferring to the shared telecommunications services provided by the SUNCOM Network and an estimate of all associated costs. The shared resource ~~state primary data~~ centers and their customers shall cooperate with the department to accomplish the transfer.

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987 2. Customers may request an exemption from this paragraph
 988 in the same manner as authorized in paragraph (a).
 989 Section 16. Subsection (2) of section 20.22, Florida
 990 Statutes, is amended to read:
 991 20.22 Department of Management Services.—There is created a
 992 Department of Management Services.
 993 (2) The following divisions and programs are established
 994 within the department ~~of Management Services are established~~:
 995 (a) Facilities Program.
 996 ~~(b) Technology Program.~~
 997 (b) (c) Workforce Program.
 998 (c) (d) 1. Support Program.
 999 (d) 2. Federal Property Assistance Program.
 1000 (e) Administration Program.
 1001 (f) Division of Administrative Hearings.
 1002 (g) Division of Retirement.
 1003 (h) Division of State Group Insurance.
 1004 Section 17. Paragraph (e) of subsection (2) of section
 1005 110.205, Florida Statutes, is amended to read:
 1006 110.205 Career service; exemptions.—
 1007 (2) EXEMPT POSITIONS.—The exempt positions that are not
 1008 covered by this part include the following:
 1009 (e) The Chief Information Officer in the Department of
 1010 State Agency for Enterprise Information Technology. Unless
 1011 otherwise fixed by law, the Governor Agency for Enterprise
 1012 Information Technology shall set the salary and benefits of this
 1013 position in accordance with the rules of the Senior Management
 1014 Service.
 1015 Section 18. Paragraph (o) of subsection (1) of section

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1016 215.22, Florida Statutes, is amended to read:
 1017 215.22 Certain income and certain trust funds exempt.—
 1018 (1) The following income of a revenue nature or the
 1019 following trust funds shall be exempt from the appropriation
 1020 required by s. 215.20(1):
 1021 (o) The Communications Working Capital Trust Fund of the
 1022 Department of State Technology ~~Management Services~~.
 1023 Section 19. Subsections (2) and (9) of section 215.322,
 1024 Florida Statutes, are amended to read:
 1025 215.322 Acceptance of credit cards, charge cards, debit
 1026 cards, or electronic funds transfers by state agencies, units of
 1027 local government, and the judicial branch.—
 1028 (2) A state agency as defined in s. 216.011, or the
 1029 judicial branch, may accept credit cards, charge cards, debit
 1030 cards, or electronic funds transfers in payment for goods and
 1031 services with the prior approval of the Chief Financial Officer.
 1032 If the Internet or other related electronic methods are to be
 1033 used as the collection medium, the Department of State Agency
 1034 ~~for Enterprise Information~~ Technology shall review and recommend
 1035 to the Chief Financial Officer whether to approve the request
 1036 with regard to the process or procedure to be used.
 1037 (9) For payment programs in which credit cards, charge
 1038 cards, or debit cards are accepted by state agencies, the
 1039 judicial branch, or units of local government, the Chief
 1040 Financial Officer, in consultation with the Department of State
 1041 Agency for Enterprise Information Technology, may adopt rules to
 1042 establish uniform security safeguards for cardholder data and to
 1043 ensure compliance with the Payment Card Industry Data Security
 1044 Standards.

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1045 Section 20. Paragraph (c) of subsection (6) of section
1046 216.292, Florida Statutes, is amended to read:

1047 216.292 Appropriations nontransferable; exceptions.—

1048 (6) The Chief Financial Officer shall transfer from any
1049 available funds of an agency or the judicial branch the
1050 following amounts and shall report all such transfers and the
1051 reasons therefor to the legislative appropriations committees
1052 and the Executive Office of the Governor:

1053 (c) The amount due to the Communications Working Capital
1054 Trust Fund from moneys appropriated in the General
1055 Appropriations Act for the purpose of paying for services
1056 provided by the state communications system in the Department of
1057 State Technology Management Services which is unpaid 45 days
1058 after the billing date. The amount transferred shall be that
1059 billed by the department.

1060 Section 21. Subsection (14) of section 287.012, Florida
1061 Statutes, is amended to read:

1062 287.012 Definitions.—As used in this part, the term:

1063 (14) "Information technology" means equipment, hardware,
1064 software, firmware, programs, systems, networks, infrastructure,
1065 media, and related material used to automatically,
1066 electronically, and wirelessly collect, receive, access,
1067 transmit, display, store, record, retrieve, analyze, evaluate,
1068 process, classify, manipulate, manage, assimilate, control,
1069 communicate, exchange, convert, converge, interface, switch, or
1070 disseminate information of any kind or form ~~has the meaning~~
1071 ~~ascribed in s. 282.0041.~~

1072 Section 22. Subsection (22) of section 287.057, Florida
1073 Statutes, is amended to read:

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1074 287.057 Procurement of commodities or contractual
1075 services.—

1076 (22) The department, in consultation with the Department of
1077 State Agency for Enterprise Information Technology and the Chief
1078 Financial Officer Comptroller, shall ~~maintain~~ develop a program
1079 for online procurement of commodities and contractual services.
1080 To enable the state to promote open competition and to leverage
1081 its buying power, agencies shall participate in the online
1082 procurement program, and eligible users may participate in the
1083 program. Only vendors prequalified as meeting mandatory
1084 requirements and qualifications criteria may participate in
1085 online procurement.

1086 (a) The department, in consultation with the Department of
1087 State Technology agency, may contract for equipment and services
1088 necessary to develop and implement online procurement.

1089 (b) The department, in consultation with the Department of
1090 State Technology agency, shall adopt rules, ~~pursuant to ss.~~
1091 ~~120.536(1) and 120.54,~~ to administer the program for online
1092 procurement. The rules must ~~shall~~ include, but are not ~~be~~
1093 limited to:

1094 1. Determining the requirements and qualification criteria
1095 for prequalifying vendors.

1096 2. Establishing the procedures for conducting online
1097 procurement.

1098 3. Establishing the criteria for eligible commodities and
1099 contractual services.

1100 4. Establishing the procedures for providing access to
1101 online procurement.

1102 5. Determining the criteria warranting any exceptions to

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1103 participation in the online procurement program.

1104 (c) The department may impose and shall collect all fees
1105 for the use of the online procurement systems.

1106 1. The fees may be imposed on an individual transaction
1107 basis or as a fixed percentage of the cost savings generated. At
1108 a minimum, the fees must be ~~set~~ in an amount sufficient to cover
1109 the projected costs of the services, including administrative
1110 and project service costs, in accordance with the policies of
1111 the department.

1112 2. If the department contracts with a provider for online
1113 procurement, the department, pursuant to appropriation, shall
1114 compensate the provider from the fees after the department has
1115 satisfied all ongoing costs. The provider shall report
1116 transaction data to the department each month so that the
1117 department may determine the amount due and payable to the
1118 department from each vendor.

1119 3. All fees that are due and payable to the state on a
1120 transactional basis or as a fixed percentage of the cost savings
1121 generated are subject to s. 215.31 and must be remitted within
1122 40 days after receipt of payment for which the fees are due. For
1123 fees that are not remitted within 40 days, the vendor shall pay
1124 interest at the rate established under s. 55.03(1) on the unpaid
1125 balance from the expiration of the 40-day period until the fees
1126 are remitted.

1127 4. All fees and surcharges collected under this paragraph
1128 shall be deposited in the Operating Trust Fund as provided by
1129 law.

1130 Section 23. Subsection (17) of section 318.18, Florida
1131 Statutes, is amended to read:

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1132 318.18 Amount of penalties.—The penalties required for a
1133 noncriminal disposition pursuant to s. 318.14 or a criminal
1134 offense listed in s. 318.17 are as follows:

1135 (17) In addition to any penalties imposed, a surcharge of
1136 \$3 must be paid for all criminal offenses listed in s. 318.17
1137 and for all noncriminal moving traffic violations under chapter
1138 316. Revenue from the surcharge shall be remitted to the
1139 Department of Revenue and deposited quarterly into the State
1140 Agency Law Enforcement Radio System Trust Fund of the Department
1141 of State Technology Management Services for the state agency law
1142 enforcement radio system, as described in s. 282.709, and to
1143 provide technical assistance to state agencies and local law
1144 enforcement agencies with their statewide systems of regional
1145 law enforcement communications, as described in s. 282.7101.
1146 This subsection expires July 1, 2021. The Department of State
1147 Technology Management Services may retain funds sufficient to
1148 recover the costs and expenses incurred for managing,
1149 administering, and overseeing the Statewide Law Enforcement
1150 Radio System, and providing technical assistance to state
1151 agencies and local law enforcement agencies with their statewide
1152 systems of regional law enforcement communications. The
1153 Department of State Technology Management Services working in
1154 conjunction with the Joint Task Force on State Agency Law
1155 Enforcement Communications shall determine and direct the
1156 purposes for which these funds are used to enhance and improve
1157 the radio system.

1158 Section 24. Section 320.0802, Florida Statutes, is amended
1159 to read:

1160 320.0802 Surcharge on license tax.—There is hereby levied

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and imposed on each license tax imposed under s. 320.08, except those set forth in s. 320.08(11), a surcharge in the amount of \$1, which shall be collected in the same manner as the license tax and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of State Technology Management Services.

Section 25. Subsection (9) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(9) SURCHARGE.—In addition, there is hereby levied and imposed on each vessel registration fee imposed under subsection (1) a surcharge in the amount of \$1 for each 12-month period of registration, which shall be collected in the same manner as the fee and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of State Technology

~~Management Services~~.

Section 26. Subsections (2) through (5) of section 364.0135, Florida Statutes, are amended to read:

364.0135 Promotion of broadband adoption.—

(2) The Department of State Technology ~~may~~ ~~Management Services is authorized to~~ work collaboratively with, and ~~to~~ receive staffing support and other resources from, Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to:

(a) Monitor the adoption of broadband Internet service in collaboration with communications service providers, including, but not limited to, wireless and wireline Internet service providers, to develop geographical information system maps at

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the census tract level that ~~will~~:

1. Identify geographic gaps in broadband services, including areas unserved by any broadband provider and areas served by a single broadband provider;

2. Identify the download and upload transmission speeds made available to businesses and individuals in the state, at the census tract level of detail, using data rate benchmarks for broadband service used by the Federal Communications Commission to reflect different speed tiers; and

3. Provide a baseline assessment of statewide broadband deployment in terms of percentage of households with broadband availability.

(b) Create a strategic plan that has goals and strategies for increasing the use of broadband Internet service in the state.

(c) Build and facilitate local technology planning teams or partnerships with members representing cross-sections of the community, which may include, but are not limited to, representatives from the following organizations and industries: libraries, K-12 education, colleges and universities, local health care providers, private businesses, community organizations, economic development organizations, local governments, tourism, parks and recreation, and agriculture.

(d) Encourage the use of broadband Internet service, especially in the rural, unserved, and underserved communities of the state through grant programs having effective strategies to facilitate the statewide deployment of broadband Internet service. For any grants to be awarded, priority must be given to projects that:

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1219 1. Provide access to broadband education, awareness,
1220 training, access, equipment, and support to libraries, schools,
1221 colleges and universities, health care providers, and community
1222 support organizations.

1223 2. Encourage the sustainable adoption of broadband in
1224 primarily unserved areas by removing barriers to entry.

1225 3. Work toward encouraging investments in establishing
1226 affordable and sustainable broadband Internet service in
1227 unserved areas of the state.

1228 4. Facilitate the development of applications, programs,
1229 and services, including, but not limited to, telework,
1230 telemedicine, and e-learning to increase the usage of, and
1231 demand for, broadband Internet service in the state.

1232 (3) The Department of State Technology may:

1233 (a) Apply for and accept federal funds for the purposes of
1234 this section, as well as gifts and donations from individuals,
1235 foundations, and private organizations.

1236 ~~(4) The Department may~~

1237 (b) Enter into contracts necessary or useful to carry out
1238 the purposes of this section.

1239 ~~(c) (5) The department may~~ Establish any committee or
1240 workgroup to administer and carry out the purposes of this
1241 section.

1242 Section 27. Subsections (3), (4), (5), (7), (9), and (10)
1243 of section 365.171, Florida Statutes, are amended to read:

1244 365.171 Emergency communications number E911 state plan.—

1245 (3) DEFINITIONS.—As used in this section, the term:

1246 (a) "Department" means the Department of State Technology

1247 ~~"Office" means the Technology Program within the Department of~~

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1248 ~~Management Services, as designated by the secretary of the~~
1249 ~~department.~~

1250 (b) "Local government" means any municipality ~~city~~, county,
1251 or political subdivision of the state and its agencies.

1252 (c) "Public agency" means the state and any municipality
1253 ~~city~~, county, ~~city and county~~, ~~municipal corporation~~, chartered
1254 organization, special public ~~public~~ district, or public authority
1255 located in whole or in part within this state which provides, or
1256 has authority to provide, firefighting, law enforcement,
1257 ambulance, medical, or other emergency services.

1258 (d) "Public safety agency" means a functional division of a
1259 public agency which provides firefighting, law enforcement,
1260 medical, or other emergency services.

1261 (4) STATE PLAN.—The department ~~office~~ shall develop,
1262 maintain, and implement appropriate modifications for a
1263 statewide emergency communications E911 system plan. The plan
1264 shall provide for:

1265 (a) The public agency emergency communications requirements
1266 for each entity of local government in the state.

1267 (b) A system to meet specific local government
1268 requirements. Such system must ~~shall~~ include law enforcement,
1269 firefighting, and emergency medical services and may include
1270 other emergency services such as poison control, suicide
1271 prevention, and emergency management services.

1272 (c) Identification of the mutual aid agreements necessary
1273 to obtain an effective E911 system.

1274 (d) A funding provision that identifies the cost necessary
1275 to implement the E911 system.

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1277 The department is ~~office shall be~~ responsible for the
 1278 implementation and coordination of such plan. The department
 1279 ~~office~~ shall adopt any necessary rules and schedules related to
 1280 public agencies for implementing and coordinating the plan,
 1281 pursuant to chapter 120.

1282 (5) SYSTEM DIRECTOR.—The secretary of the department or his
 1283 or her designee is designated as the director of the statewide
 1284 emergency communications number E911 system and, for the purpose
 1285 of carrying out the provisions of this section, may ~~is~~
 1286 ~~authorized to~~ coordinate the activities of the system with
 1287 state, county, local, and private agencies. The director in
 1288 implementing the system shall consult, cooperate, and coordinate
 1289 with local law enforcement agencies.

1290 (7) TELECOMMUNICATIONS INDUSTRY COORDINATION.—The
 1291 department ~~office~~ shall coordinate with the Florida Public
 1292 Service Commission which shall encourage the Florida
 1293 telecommunications industry to activate facility modification
 1294 plans for timely E911 implementation.

1295 (9) SYSTEM APPROVAL.—~~An~~ ~~no~~ emergency communications number
 1296 E911 system ~~may not~~ ~~shall~~ be established or ~~and no~~ present
 1297 system ~~shall~~ be expanded without the prior approval of the
 1298 department ~~office~~.

1299 (10) COMPLIANCE.—All public agencies shall assist the
 1300 department ~~office~~ in their efforts to carry out the intent of
 1301 this section, and such agencies shall comply with the developed
 1302 plan.

1303 Section 28. Present paragraphs (h) through (s) of
 1304 subsection (3) of section 365.172, Florida Statutes, are
 1305 redesignated as paragraphs (i) through (t), respectively, a new

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1306 paragraph (h) is added to that subsection, and paragraph (d) of
 1307 subsection (2), present paragraph (t) of subsection (3),
 1308 subsection (4), paragraph (a) of subsection (5), paragraph (c)
 1309 of subsection (6), and paragraph (f) of subsection (12) of that
 1310 section, are amended to read:

1311 365.172 Emergency communications number "E911."—

1312 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
 1313 to:

1314 (d) Provide for an E911 board to administer the fee, with
 1315 oversight by the department ~~office~~, in a manner that is
 1316 competitively and technologically neutral with respect ~~as~~ to all
 1317 voice communications services providers.

1318
 1319 It is further the intent of the Legislature that the fee
 1320 authorized or imposed by this section not necessarily provide
 1321 the total funding required for establishing or providing E911
 1322 service.

1323 (3) DEFINITIONS.—Only as used in this section and ss.
 1324 365.171, 365.173, and 365.174, the term:

1325 (h) "Department" means the Department of State Technology.

1326 ~~(t) "Office" means the Technology Program within the~~
 1327 ~~Department of Management Services, as designated by the~~
 1328 ~~secretary of the department.~~

1329 (4) POWERS AND DUTIES OF THE DEPARTMENT ~~OFFICE~~.—The
 1330 department ~~office~~ shall oversee the administration of the fee
 1331 authorized and imposed on subscribers of voice communications
 1332 services under subsection (8).

1333 (5) THE E911 BOARD.—

1334 (a) The E911 Board is established to administer, with

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oversight by the department office, the fee imposed under subsection (8), including ~~receiving~~ revenues derived from the fee; distributing portions of the revenues to wireless providers, counties, and the department office; accounting for receipts, distributions, and income derived ~~from by~~ the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the department office on amounts collected and expended, the purposes for which expenditures have been made, and the status of E911 service in this state. In order to advise and assist the department office in administering ~~implementing the purposes of~~ this section, the board, which has the power of a body corporate, has the powers enumerated in subsection (6).

(6) AUTHORITY OF THE BOARD; ANNUAL REPORT.—

(c) By February 28 of each year, the board shall prepare a report for submission by the department office to the Governor, Cabinet, the President of the Senate, and the Speaker of the House of Representatives which addresses for the immediately preceding calendar year:

1. The annual receipts, including the total amount of fee revenues collected by each provider, the total disbursements of money in the fund, including the amount of fund-reimbursed expenses incurred by each wireless provider to comply with the order, and the amount of moneys on deposit in the fund.

2. Whether the amount of the fee and the allocation percentages set forth in s. 365.173 have been or should be adjusted to comply with the ~~requirements of the~~ order or other provisions of this chapter, and the reasons for making or not making a recommended adjustment to the fee.

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3. Any other issues related to providing E911 services.

4. The status of E911 services in this state.

(12) FACILITATING E911 SERVICE IMPLEMENTATION.—To balance the public need for reliable E911 services through reliable wireless systems and the public interest served by governmental zoning and land development regulations and notwithstanding any other law or local ordinance to the contrary, the following standards ~~shall~~ apply to a local government's actions, as a regulatory body, in the regulation of the placement, construction, or modification of a wireless communications facility. This subsection does ~~shall~~ not, ~~however, be construed~~ ~~to~~ waive or alter the provisions of s. 286.011 or s. 286.0115. For the purposes of this subsection only, the term "local government" means only ~~shall mean~~ any municipality or county and any agency of a municipality or county ~~only~~. The term "local government" does not, ~~however,~~ include any airport, as defined by s. 330.27(2), even if it is owned or controlled by or through a municipality, county, or agency of a municipality or county. Further, notwithstanding any other provision of ~~anything in~~ this section ~~to the contrary~~, this subsection does not apply to or control a local government's actions ~~as a property or structure owner~~ in the use of any property or structure owned by such entity for the placement, construction, or modification of wireless communications facilities. In the use of property or structures owned by the local government, however, a local government may not use its regulatory authority so as to avoid compliance with, or in a manner that does not advance, the provisions of this subsection.

(f) Any other law to the contrary notwithstanding, the

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1393 department and the Department of Management Services shall
 1394 negotiate, in the name of the state, leases for wireless
 1395 communications facilities that provide access to state
 1396 government-owned property not acquired for transportation
 1397 purposes, and the Department of Transportation shall negotiate,
 1398 in the name of the state, leases for wireless communications
 1399 facilities that provide access to property acquired for state
 1400 rights-of-way. On property acquired for transportation purposes,
 1401 leases shall be granted in accordance with s. 337.251. On other
 1402 state government-owned property, leases shall be granted on a
 1403 space available, first-come, first-served basis. Payments
 1404 required by state government under a lease must be reasonable
 1405 and ~~must~~ reflect the market rate for the use of the state
 1406 government-owned property. The department ~~of Management Services~~
 1407 and the Department of Transportation may ~~are authorized to~~ adopt
 1408 rules for the terms and conditions and granting of any such
 1409 leases.

1410 Section 29. Subsection (1) and paragraph (g) of subsection
 1411 (2) of section 365.173, Florida Statutes, are amended to read:

1412 365.173 Emergency Communications Number E911 System Fund.—

1413 (1) All revenues derived from the fee levied on subscribers
 1414 under s. 365.172 must be paid by the board into the State
 1415 Treasury on or before the 15th day of each month. Such moneys
 1416 must be accounted for in a special fund to be designated as the
 1417 Emergency Communications Number E911 System Fund, a fund created
 1418 in the Department of State Technology Program, ~~or other office~~
 1419 ~~as designated by the Secretary of Management Services~~, and, for
 1420 accounting purposes, ~~must be~~ segregated into two separate
 1421 categories:

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- 1422 (a) The wireless category; and
 1423 (b) The nonwireless category.

1424
 1425 All moneys must be invested by the Chief Financial Officer
 1426 pursuant to s. 17.61. All moneys in such fund shall ~~are to~~ be
 1427 expended by the department ~~office~~ for the purposes provided in
 1428 this section and s. 365.172. These funds are not subject to s.
 1429 215.20.

1430 (2) As determined by the board pursuant to s.
 1431 365.172(8)(h), and subject to any modifications approved by the
 1432 board pursuant to s. 365.172(6)(a)3. or (8)(i), the moneys in
 1433 the fund shall be distributed and used only as follows:

1434 (g) Two percent of the moneys in the fund shall be used to
 1435 make monthly distributions to rural counties for the purpose of
 1436 providing facilities and network and service enhancements and
 1437 assistance for the 911 or E911 systems operated by rural
 1438 counties and for the provision of grants by the department
 1439 ~~office~~ to rural counties for upgrading and replacing E911
 1440 systems.

1441
 1442 The Legislature recognizes that the fee authorized under s.
 1443 365.172 may not necessarily provide the total funding required
 1444 for establishing or providing the E911 service. It is the intent
 1445 of the Legislature that all revenue from the fee be used as
 1446 specified in this subsection.

1447 Section 30. Subsection (1) of section 365.174, Florida
 1448 Statutes, is amended to read:

1449 365.174 Proprietary confidential business information.—

1450 (1) All proprietary confidential business information

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submitted by a provider to the board or the Department of State Technology office, including the name and billing or service addresses of service subscribers, and trade secrets as defined by s. 812.081, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Statistical abstracts of information collected by the board or the department office may be released or published, but only in a manner that does not identify or allow identification of subscribers or their service numbers or of revenues attributable to any provider.

Section 31. Section 401.013, Florida Statutes, is amended to read:

401.013 Legislative intent.—It is the intention and purpose of the Legislature that a statewide system of regional emergency medical telecommunications be developed whereby the maximum use of existing radio channels is achieved in order to more effectively and rapidly provide emergency medical service to the general population. To this end, all emergency medical service entities within the state are directed to provide the Department of State Technology Management Services with any information the department requests for the purpose of implementing the ~~provisions of~~ s. 401.015, and such entities must ~~shall~~ comply with the resultant provisions established pursuant to this part.

Section 32. Section 401.015, Florida Statutes, is amended to read:

401.015 Statewide regional emergency medical telecommunication system.—The Department of State Technology ~~shall~~ Management Services is authorized and directed to develop a statewide system of regional emergency medical

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telecommunications. For the purpose of this part, the term "telecommunications" means ~~those~~ voice, data, and signaling transmissions and receptions between emergency medical service components, including, but not limited to: ambulances; rescue vehicles; hospitals or other related emergency receiving facilities; emergency communications centers; physicians and emergency medical personnel; paging facilities; law enforcement and fire protection agencies; and poison control, suicide, and emergency management agencies. In formulating such a system, the agency department shall divide the state into appropriate regions and ~~shall~~ develop a program that ~~which~~ includes, but is not limited to, the following provisions:

(1) A requirements provision that states, ~~which shall state~~ the telecommunications requirements for each emergency medical entity comprising the region.

(2) An interfacility communications provision that depicts, ~~which shall depict~~ the telecommunications interfaces between the various medical service entities which operate within the region and state.

(3) An organizational layout provision that includes, ~~which shall include~~ each emergency medical entity and the number of radio operating units (base, mobile, handheld, etc.) per entity.

(4) A frequency allocation and use provision that includes, ~~which shall include~~ on an entity basis each assigned and planned radio channel and the type of operation (simplex, duplex, half duplex, etc.) on each channel.

(5) An operational provision that includes, ~~which shall include~~ dispatching, logging, and operating procedures pertaining to telecommunications on an entity basis and regional

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1509 basis.

1510 (6) An emergency medical service telephone provision that
 1511 ~~includes, which shall include~~ the telephone and the numbering
 1512 plan throughout the region for both the public and interface
 1513 requirements.

1514 Section 33. Section 401.018, Florida Statutes, is amended
 1515 to read:

1516 401.018 System coordination.—

1517 (1) The statewide system of regional emergency medical
 1518 telecommunications shall be developed by the Department of State
 1519 Technology Management Services, which ~~department~~ shall be
 1520 responsible for the implementation and coordination of such
 1521 system into the state telecommunications plan. The department
 1522 shall adopt any necessary rules ~~and regulations~~ for
 1523 administering ~~implementing~~ and coordinating such a system.

1524 (2) The Department of State Technology Management Services
 1525 shall be designated as the state frequency coordinator for the
 1526 special emergency radio service.

1527 Section 34. Section 401.021, Florida Statutes, is amended
 1528 to read:

1529 401.021 System director.—The Secretary of the Department of
 1530 State Technology Management Services or his or her designee is
 1531 designated as the director of the statewide telecommunications
 1532 system of the regional emergency medical service and, for the
 1533 purpose of carrying out the provisions of this part, may ~~is~~
 1534 ~~authorized to~~ coordinate the activities of the
 1535 telecommunications system with other interested state, county,
 1536 local, and private agencies.

1537 Section 35. Section 401.024, Florida Statutes, is amended

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1538 to read:

1539 401.024 System approval.—~~An~~ ~~From July 1, 1973, no~~ emergency
 1540 medical telecommunications system may not ~~shall~~ be established
 1541 or present systems expanded without prior approval of the
 1542 Department of State Technology Management Services.

1543 Section 36. Section 401.027, Florida Statutes, is amended
 1544 to read:

1545 401.027 Federal assistance.—The Secretary of the Department
 1546 of State Technology Management Services or his or her designee
 1547 may ~~is authorized~~ to apply for and accept federal funding
 1548 assistance in the development and implementation of a statewide
 1549 emergency medical telecommunications system.

1550 Section 37. Subsection (4) of section 445.011, Florida
 1551 Statutes, is amended to read:

1552 445.011 Workforce information systems.—

1553 (4) Workforce Florida, Inc., shall coordinate development
 1554 and implementation of workforce information systems with the
 1555 Secretary ~~executive director~~ of the Department of State Agency
 1556 ~~for Enterprise Information~~ Technology to ensure compatibility
 1557 with the state's information system strategy and enterprise
 1558 architecture.

1559 Section 38. Subsection (2) and paragraphs (a) and (b) of
 1560 subsection (4) of section 445.045, Florida Statutes, are amended
 1561 to read:

1562 445.045 Development of an Internet-based system for
 1563 information technology industry promotion and workforce
 1564 recruitment.—

1565 (2) Workforce Florida, Inc., shall coordinate with the
 1566 Department of State Agency for Enterprise Information Technology

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and the Department of Economic Opportunity to ensure that links, where feasible and appropriate, to existing job information websites maintained by the state and state agencies and ~~to ensure~~ that information technology positions offered by the state and state agencies are posted on the information technology website.

(4) (a) Workforce Florida, Inc., shall coordinate development and maintenance of the website under this section with the Secretary ~~executive director~~ of the Department of State Agency for Enterprise Information Technology to ensure compatibility with the state's information system strategy and enterprise architecture.

(b) Workforce Florida, Inc., may enter into an agreement with the Department of State Agency for Enterprise Information Technology, the Department of Economic Opportunity, or any other public agency with the requisite information technology expertise for the provision of design, operating, or other technological services necessary to develop and maintain the website.

Section 39. Paragraph (b) of subsection (18) of section 668.50, Florida Statutes, is amended to read:

668.50 Uniform Electronic Transaction Act.—

(18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY GOVERNMENTAL AGENCIES.—

(b) To the extent that a governmental agency uses electronic records and electronic signatures under paragraph (a), the Department of State Agency for Enterprise Information Technology, in consultation with the governmental agency, giving due consideration to security, may specify:

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1. The manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes.

2. If electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process.

3. Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records.

4. Any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

Section 40. Transfer from the Executive Office of the Governor.—All of the powers, duties, functions, records, personnel, and property; funds, trust funds, and unexpended balances of appropriations, allocations, and other funds; administrative authority; administrative rules; pending issues; and existing contracts of the Agency for Enterprise Information Technology within the Executive Office of the Governor shall continue and to the extent necessary are transferred by a type one transfer, pursuant to s. 20.06(1), Florida Statutes, to the Department of State Technology under s. 20.61, Florida Statutes.

Section 41. Transfer from the Department of Management Services.—

(1) The Technology Program established under s. 20.22(2), Florida Statutes, is transferred intact by a type one transfer,

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1625 as defined in s. 20.06(1), Florida Statutes, from the Department
1626 of Management Services to the Department of State Technology.

1627 (2) All of the powers, duties, functions, records,
1628 personnel, and property; funds, trust funds, and unexpended
1629 balances of appropriations, allocations, and other funds;
1630 administrative authority; administrative rules; pending issues;
1631 and existing contracts relating to the following
1632 responsibilities of the Department of Management Services are
1633 transferred by a type one transfer, as defined in s.20.06(1), to
1634 the Department of State Technology:

1635 (a) Administrative and regulatory responsibilities under
1636 part II of chapter 282, Florida Statutes, consisting of ss.
1637 282.601-282.606, Florida Statutes, relating to accessibility of
1638 electronic information and information technology for state
1639 employees and members of the public with disabilities, including
1640 the responsibility for rules for the development, procurement,
1641 maintenance, and use of accessible electronic information
1642 technology by governmental units pursuant to s. 282.604, Florida
1643 Statutes.

1644 (b) Administrative and regulatory responsibilities under
1645 part III of chapter 282, Florida Statutes, consisting of ss.
1646 282.701-282.711, Florida Statutes, relating to the state
1647 telecommunications network, state communications,
1648 telecommunications services with state agencies and political
1649 subdivisions of the state, the SUNCOM network, the law
1650 enforcement radio system and interoperability network, regional
1651 law enforcement communications, and remote electronic access.

1652 (c) Administrative and regulatory responsibilities under s.
1653 364.0135, Florida Statutes, relating to broadband Internet

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1654 service.

1655 (d) Administrative and regulatory responsibilities under
1656 ss. 365.171-365.175, Florida Statutes, relating to emergency
1657 communications number E911.

1658 (e) Administrative and regulatory responsibilities under
1659 part I of chapter 401, Florida Statutes, consisting of ss.
1660 401.013-401.027, Florida Statutes, relating to a statewide
1661 system of regional emergency medical telecommunications.

1662 (3)(a) The following trust funds are transferred by a type
1663 one transfer, as defined in s. 20.06(1), Florida Statutes, from
1664 the Department of Management Services to the Department of State
1665 Technology:

- 1666 1. The Communications Working Capital Trust Fund.
- 1667 2. The Emergency Communications Number E911 System Fund.
- 1668 3. The State Agency Law Enforcement Radio System Trust
- 1669 Fund.
- 1670 4. Federal Grants Trust Fund.

1671 (b) All unexpended balances of appropriations, allocations,
1672 and other funds of the Department of Management Services
1673 relating to ss. 282.701-282.711, s. 364.0135, ss. 365.171-
1674 365.175, and part I of chapter 401, Florida Statutes, which are
1675 not specifically transferred by this subsection are transferred
1676 by a type one transfer, as defined in s. 20.06(1), Florida
1677 Statutes, to the Department of State Technology.

1678 (4) All lawful orders issued by the Department of
1679 Management Services implementing or enforcing or otherwise in
1680 regard to ss. 282.701-282.711, s. 364.0135, ss. 365.171-365.175,
1681 or part I of chapter 401, Florida Statutes, issued before July
1682 1, 2013, shall remain in effect and be enforceable after that

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date unless thereafter modified in accordance with law.

(5) Any binding contract or interagency agreement entered into pursuant to ss. 282.701-282.711, s. 364.0135, ss. 365.171-365.175, or part I of chapter 401, Florida Statutes, and existing before July 1, 2013, between the Department of Management Services or an entity or agent of the department and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement on the Department of State Technology.

(6) The rules of the Department of Management Services relating to ss. 282.701-282.711, s. 364.0135, ss. 365.171-365.175, or part I of chapter 401, Florida Statutes, that were in effect at 11:59 p.m. on June 30, 2013, shall become the rules of the Department of State Technology and remain in effect until amended or repealed in the manner provided by law.

(7) The transfer of regulatory authority under ss. 282.701-282.711, s. 364.0135, ss. 365.171-365.175, or part I of chapter 401, Florida Statutes, provided by this section does not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on June 30, 2013, to which the Department of Management Services is at that time a party, and the Department of State Technology shall be substituted as a party in interest in any such action.

(8) The Northwood Shared Resource Center is transferred by a type one transfer, as defined in s. 20.06(1), Florida Statutes, from the Department of Management Services to the Department of State Technology.

(a) Any binding contract or interagency agreement entered into between the Northwood Shared Resource Center or an entity

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or agent of the center and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement on the Department of State Technology.

(b) The rules of the Northwood Shared Resource Center that were in effect at 11:59 p.m. on June 30, 2013, shall become the rules of the Department of State Technology and shall remain in effect until amended or repealed in the manner provided by law.

(9) The Southwood Shared Resource Center is transferred by a type one transfer, as defined in s. 20.06(1), Florida Statutes, from the Department of Management Services to the Department of State Technology.

(a) Any binding contract or interagency agreement entered into between the Southwood Shared Resource Center or an entity or agent of the center and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement on the Department of State Technology.

(b) The rules of the Southwood Shared Resource Center that were in effect at 11:59 p.m. on June 30, 2013, shall become the rules of the Department of State Technology and shall remain in effect until amended or repealed in the manner provided by law.

Section 42. For the 2013-2014 fiscal year, the sum of \$2,865,108 in recurring general revenue funds, \$2,134,892 in nonrecurring general revenue funds, and 24 full-time equivalent positions and associated salary rate of 2,010,951 are appropriated to the Department of State Technology for the purpose of implementing this act.

Section 43. Except as otherwise expressly provided in this

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1741 act and except for this section, which shall take effect upon
1742 become law, this act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic Bill Bill Number 7024
Name Frank Meiners Amendment Barcode _____
Job Title _____
Address PO Box 1433 Phone 850 591-0177
Street Tall State FL Zip 32302
City E-mail frank@chgnail.com
Speaking: ☒ For ☐ Against ☐ Information
Representing Assoc. Industries of FL (AIF)
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/07/13

Meeting Date _____

Topic State Technology Bill Number SB 7024
Name Mark Zadra Amendment Barcode 964212
Job Title Assistant Commissioner
Address 2331 Phillips Road Phone 850-410-7001
Street Tallahassee State FL Zip 32308
City E-mail markzadra@fdle.state.fl.us
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Department of Law Enforcement
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/7/2013

Meeting Date

Topic _____

Bill Number SPB 7024
(if applicable)

Name Logan McFaddin

Amendment Barcode _____
(if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

Representing CFO'S Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7026

INTRODUCER: For consideration by the Governmental Oversight and Accountability Committee

SUBJECT: Transparency in Government Spending

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	McVaney		Submitted as Committee Bill
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7026 amends the Florida Transparency Act by:

- Requiring the creation of a single website through which all other websites required by the act may be accessed.
- Creating style and formatting requirements for all websites required by the act.
- Requiring the creation of a website relating to state employee and officer data.
- Requiring the creation of a website relating to state fiscal planning data.
- Adding search criteria and informational requirements to and amending suggested Joint Legislative Auditing Committee recommendations for the existing state budget website.
- Requiring creation of a website for the state contract management system, creating provisions governing the posting of required documents to the website, and changing the entities subject to the posting requirements from “governmental entities” to “state agencies.”

The bill also:

- Provides an appropriation to the Department of Financial Services for implementation of the state contract system.
- Creates a task force to develop and recommend a design for consolidating state transparency websites into one website.

This bill substantially amends section 215.985, F.S.

II. Present Situation:

Transparency Florida Act

The Transparency Florida Act¹ (act) requires specified state fiscal information to be made publicly available via website or management system. A municipality or special district that has total annual revenues of less than \$10 million is exempt from the act.²

State Budget Website

The act requires the Executive Office of the Governor (EOG), in consultation with the Senate and House of Representatives appropriations committees, to establish and maintain a single website, directly accessible by the public through Florida's official Internet portal,³ to provide information relating to each appropriation in the General Appropriations Act (GAA)⁴ for each branch of state government and state agency^{5, 6}. Such information must include, but is not limited to:

- Disbursement data for each appropriation by the object code associated with the expenditure established within the Florida Accounting Information Resource Subsystem (FLAIR).⁷ Expenditure data must include the name of the payee, the date of the expenditure, the amount of the expenditure, and the statewide document number.
- For each appropriation, any adjustments, including vetoes, approved supplemental appropriations included in legislation other than the GAA, budget amendments, other actions approved pursuant to chapter 216,⁸ and any other adjustments authorized by law.
- Status of spending authority for each appropriation in the approved operating budget, including released, unreleased, reserved, and disbursed balances.

¹ Chapter 2009-74, s. 2, L.O.F. (codified at s. 215.985, F.S.).

² Section 215.985(11), F.S.

³ The State of Florida's official internet portal is www.myflorida.com.

⁴ As required by the Florida Constitution, the GAA provides itemization of expenditures for:

- State operations.
- State capital outlay.
- Aid to local governments and nonprofit organizations operations.
- Federal funds and associated state matching funds.
- Spending authorizations for operations.
- Spending authorizations for capital outlay (FLA. CONST., art. III, s. 19(b)).

⁵ "State agency" is not defined by ch. 215, F.S.; however, ch. 216, F.S., includes a definition that may be applicable. Section 216.011(1)(qq), F.S., provides that for the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, "state agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purpose of chs. 215 and 216, F.S., the term includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Florida Clerks of Court operations Corporation, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. For the purposes of implementing s. 19(h), Art. III of the Florida Constitution, the term includes the judicial branch. (Section 19(h), Art. III of the Florida Constitution governs long-range state planning document and department and agency planning document processes.)

⁶ Section 215.985(3), F.S.

⁷ The FLAIR is part of the Florida Financial Management Information System (*see* footnote 10). The FLAIR is a double-entry, computer-based, general ledger accounting system, operated by the Department of Financial Services, that is used to perform the state's accounting and financial management functions (*see* "Florida Accounting Information Resource," <https://flair.dbf.state.fl.us/> (last visited March 5, 2013)).

⁸ Chapter 216, F.S., provides planning and budgeting requirements.

- Position and rate information for positions provided in the GAA.⁹

All data provided through the website must be data currently available in the Florida Financial Management Information System^{10, 11}. The Office of Policy and Budget in the EOG must ensure that all data added to the state budget website remains accessible to the public for 10 years.¹²

The Joint Legislative Auditing Committee (JLAC) is required to propose additional state fiscal information to be provided on the state budget website.¹³ Such additional information may include, but is not limited to, the following information for state agencies:

- Details of nonoperating budget authority established pursuant to s. 216.181, F.S.¹⁴
- Trust fund balance reports, including cash available, investments, and receipts.
- General revenue fund balance reports, including revenue received and amounts disbursed.
- Fixed capital outlay project data, including original appropriation and disbursements throughout the life of the project.
- A 10-year history of appropriations indicated by agency.
- Links to state audits or reports related to the expenditure and dispersal of state funds.
- Links to program or activity descriptions for which funds may be expended.

The act also requires the JLAC to recommend a format for collecting and displaying information from state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local governmental units, and other governmental entities.¹⁵

By November 1, 2012, and annually thereafter, the JLAC must develop a schedule for adding additional information to the website by type of information and governmental entity, including timeframes and development entity.¹⁶ The JLAC must submit the schedule to the President of the Senate and the Speaker of the House of Representatives. Additional information may include, but is not limited to:

- Disbursements by the governmental entity from funds established within the treasury of the governmental entity, including, for all branches of state government, allotment balances in the FLAIR.

⁹ Section 215.985(3)(a), F.S.

¹⁰ Section 215.985(3)(b), F.S. Section 215.93(1), F.S., establishes the Florida Financial Management Information System to provide the information necessary to carry out the intent of the Legislature. The system must include, but is not limited to, the:

- Planning and Budgeting Subsystem;
- Florida Accounting Information Resources Subsystem;
- Cash Management Subsystem;
- Purchasing Subsystem; and
- Personnel Information System. *Id.*

¹¹ Section 215.985(3)(b), F.S.

¹² Section 215.985(14), F.S.

¹³ Section 215.985(4), F.S.

¹⁴ Section 216.181, F.S., specifies provisions relating to approved budgets for operations and fixed capital outlay.

¹⁵ Section 215.985(5), F.S. Section 215.985(2)(a), F.S., defines “governmental entity” to mean any state, regional, county, municipal, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, any department, division, bureau, commission, authority, district, or agency thereof, or any public school, Florida College System institution, state university, or associated board.

¹⁶ Section 215.985(6), F.S.

- Revenues received by each governmental entity, including receipts or deposits by the governmental entity into funds established within the treasury of the governmental entity.
- Information relating to a governmental entity's bonded indebtedness, including, but not limited to, the total amount of obligation stated in terms of principal and interest, an itemization of each obligation, the term of each obligation, the source of funding for repayment of each obligation, the amounts of principal and interest previously paid to reduce each obligation, the balance remaining of each obligation, any refinancing of any obligation, and the cited statutory authority to issue such bonds.
- Links to available governmental entity websites.¹⁷

The JLAC also must prepare an annual report detailing progress in establishing the website and providing recommendations for enhancement of the content and format of the website and related policies and procedures.¹⁸ Such reports must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.¹⁹

In furtherance of the state budget website, the act requires:

- Each executive branch agency, the state court system, and the Legislature to establish, by August 31 of each fiscal year, allotments in the FLAIR for planned expenditures of state appropriations.²⁰
- The JLAC to coordinate with the Financial Management Information Board²¹ in developing any recommendations for including information on the website which is necessary to meet the requirements of s. 215.91(8), F.S.^{22,23}
- Functional owners²⁴ and other governmental entities to provide information necessary to accomplish the purposes of the act.²⁵

Water Management District Websites

The act requires each water management district²⁶ to provide a monthly financial statement to its governing board and make such statement available for public access on its website.²⁷

¹⁷ *Id.*

¹⁸ Section 215.985(15), F.S.

¹⁹ *Id.*

²⁰ Section 215.985(8), F.S.

²¹ The Financial Management Information Board is part of the Administration Commission and is composed of the Governor, the Chief Financial Officer, the Commissioner of Agriculture, and the Attorney General (s. 215.95(1), F.S.). Its duties include management and oversight of the Florida Financial Management Information System (s. 215.95(2), F.S.).

²² Section 215.91(8), F.S.,

²³ Section 215.985(9), F.S.

²⁴ Section 215.94, F.S., provides that the functional owners of the subsystems of the Florida Financial Management Information System (*see* footnote 10) are as follows:

- For the Planning and Budgeting Subsystem: the EOG.
- For the FLAIR: the Department of Financial Services.
- For the Cash Management Subsystem: the Chief Financial Officer.
- For the Purchasing Subsystem: the Department of Management Services.
- For the Personnel Information System: the Department of Management Services.

²⁵ Section 215.985(10), F.S.

²⁶ The state of Florida has five water management districts (WMDs). The WMDs' duties include:

- Administration of flood protection programs.

State Contract Management System

The act requires the Chief Financial Officer²⁸ (CFO) to provide public access to a state contract management system that provides information and documentation relating to contracts procured by governmental entities.²⁹ Such data must include, but is not limited to:

- The contracting agency.
- The procurement method.
- The contract beginning and ending dates.
- The type of commodity or service.
- The compensation to be paid.
- Compliance information, such as performance metrics for the service or commodity.
- Contract violations.
- The number of extensions or renewals.
- The statutory authority for providing the service.³⁰

Within 30 days after a major change to an existing contract or the execution of a new contract, agency procurement staff of the affected state governmental entity must update the necessary information in the state contract management system.³¹ A major change to a contract includes, but is not limited to:

- A renewal, termination, or extension of the contract; or
- An amendment to the contract.³²

Data Available on State Websites

State Budget Website

The state budget website required by the act is located at transparencyflorida.gov. The website includes:

- All information required to be posted on the website.
- All information suggested for inclusion on the website except:
 - Non-operating budget information.

-
- Performance of technical investigations into water resources.
 - Development of water management plans for water shortages in times of drought.
 - Acquisition and management of lands for water management purposes under the Save Our Rivers program.
 - Administration of regulatory programs to manage the consumptive use of water, aquifer recharge, well construction, and surface water management (*see* “Water Management Districts,” Florida Department of Environmental Protection, <http://www.dep.state.fl.us/secretary/watman/> (last visited March 5, 2013)).

²⁷ Section 215.985(12), F.S.

²⁸ The CFO is an elected constitutional Cabinet member (FLA. CONST., art. IV, s. 4(a) and (c)). The CFO serves as the chief fiscal officer for the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities (FLA. CONST., art. IV, s. 4(c) and s. 17.001, F.S.). The CFO also serves as the head of the Department of Financial Services (DFS), which executes the duties of the CFO (s. s. 20.121, F.S.).

²⁹ Section 215.985(16), F.S.

³⁰ Section 215.985(16)(a), F.S.

³¹ Section 215.985(16)(b), F.S.

³² *Id.*

- Information relating to a governmental entity's bond indebtedness.
- Information from state universities, Florida College System institutions, school districts, charter schools, charter technical centers, and local governmental units.
- Links to:
 - State audits or reports related to the expenditures and dispersal of state funds.
 - Program or activity descriptions for which funds may be expended.
 - Reports of public school districts.

State Contract Management System

Although the act does not require the state contract management system to be available via website, the CFO makes a limited number of contracts available online through the Florida Accountability Contract Tracking System (FACTS).³³ Contracts are searchable on FACTS by:

- Agency name.
- Vendor name.
- Agency assigned contract ID.
- Contract dollar value.
- Beginning and ending dates of the contract.
- Commodity or service type.

Additional Information

Additional state governmental information available via website includes, but is not limited to:

- Monthly financial statements of WMDs, as required by the act.³⁴
- Agency legislative budget requests, original and amended;³⁵ capital improvement plans;³⁶ long-range performance plans;³⁷ the Governor's budget recommendations;³⁸ legislative appropriations bills;³⁹ the conference report on the budget;⁴⁰ the Governor's veto message and a list of vetoed appropriations;⁴¹ fiscal analysis in brief;⁴² and planning and budgeting instructions and forms.⁴³

³³ Available at <https://facts.fldfs.com/Search/ContractSearch.aspx> (last visited March 5, 2013).

³⁴ Available at <http://www.nfwmd.state.fl.us/bizfinance.html>, <http://www.srwmd.state.fl.us/index.aspx?NID=136>, <http://floridaswater.com/financialstatements/>, <http://www.swfwmd.state.fl.us/business/financials/>, and http://www.sfwmd.gov/portal/page/portal/xweb%20about%20us/agency%20reports#budget_strategic_plan. Last visited March 5, 2013.

³⁵ Available via the Florida Fiscal Portal (<http://floridafiscalportal.state.fl.us>, last visited March 5, 2013) and the Governor's "Let's Get to Work" website (<http://letsgettowork.state.fl.us/HomeFY14.htm>, last visited March 5, 2013).

³⁶ Available via the Florida Fiscal Portal.

³⁷ *Id.*

³⁸ Available via the Florida Fiscal Portal and the Governor's "Let's Get to Work" website.

³⁹ Available via the Florida Fiscal Portal, the Governor's "Let's Get to Work" website, and the official websites of the Senate and the House of Representatives (www.flsenate.gov and www.myfloridahouse.gov, respectively (last visited March 5, 2013)).

⁴⁰ Available via the Florida Fiscal Portal and the official websites of the Senate and the House of Representatives.

⁴¹ Available via the Florida Fiscal Portal.

⁴² *Id.* The fiscal analysis in brief consists of the financial outlook post-session.

⁴³ Available via the Florida Fiscal Portal.

- Payroll and position data for the executive and judicial branches,⁴⁴ state universities,⁴⁵ and the legislative branch.⁴⁶

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.⁴⁷ The records of the legislative, executive, and judicial branches are specifically included.⁴⁸

In addition to the Florida Constitution, the Florida Statutes specify requirements for public access to government records. The Public Records Act⁴⁹ guarantees every person's right to inspect and copy any state or local government public record⁵⁰ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵¹

Only the Legislature may create an exemption to public records requirements.⁵² If an agency receives a request for a public record that contains exempt or confidential information, the agency shall redact the portion of the record containing exempt or confidential information.⁵³

⁴⁴ Available via the Governor's "Florida Has Right to Know" website (<http://www.floridahasarighttoknow.com/>, last visited March 5, 2013).

⁴⁵ *Id.*

⁴⁶ Available via the official websites of the Senate and the House of Representatives.

⁴⁷ FLA. CONST., art. I, s. 24(a).

⁴⁸ *Id.*

⁴⁹ Chapter 119, F.S.

⁵⁰ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵¹ Section 119.07(1)(a), F.S.

⁵² FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁵³ Section 119.07(1)(d), F.S. Section 119.011(13), F.S., defines "redact" to mean to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.

III. Effect of Proposed Changes:

Florida Transparency Act

This bill amends the Florida Transparency Act as follows.

Definition

The bill defines “contract,” which is currently used in the act but not defined, to mean a written agreement or purchase order issued for the purchase of goods or services or a written agreement for the receipt of state or federal financial assistance.

Style and Formatting Requirements

The bill creates style and format requirements for all websites required by the act. Each such website must:

- Be constructed for usability that, to the extent possible,⁵⁴ provides an intuitive user experience.
- Provide a consistent visual design, interaction or navigation design, and information or data presentation.
- Be deployed in compliance with the Americans with Disabilities Act.⁵⁵
- Be compatible with all major web browsers.⁵⁶

State Budget Website

The bill amends provisions relating to the state budget website currently required by the act as follows.

Drafting Changes

The bill deletes the requirement that the website be a single website that is directly accessible through Florida’s internet portal because the bill also requires the creation of a new single access website, as described later in the analysis.

Search Criteria

The bill creates search criteria and downloading requirements for the currently-required disbursement data for expenditures in the Florida Accounting information Resource Subsystem (FLAIR). It requires such data to be searchable by the name of the payee, the paying agency, and fiscal year. It also requires such data to be downloadable in a format that allows offline analysis.

Required Information

The bill expands the information that must be included from that relating to “each appropriation in the GAA” to that relating to “the approved operating budget.” The approved operating budget

⁵⁴ The bill does not specify what is meant by “to the extent possible.”

⁵⁵ The Americans with Disabilities Act (Pub. L. No. 101-336, § 2, 104 Stat. 328 (1991)) contains nondiscrimination requirements for state and local government websites. Suggestions for compliance include, but are not limited to, text equivalents for images, accessible formats for documents, and avoidance of dictating colors and font settings.

⁵⁶ The bill does not define “major web browser.”

includes the GAA, any amendments to the GAA, and related provisions of enacted substantive legislation.

The bill expands the categories of currently-required position and rate information for positions provided in the GAA to also require position and rate information for:

- Positions approved through an amendment to the operating budget.
- Positions established in the legislative branch.

JLAC Duties

The bill deletes the requirement that the JLAC recommend additional state fiscal information for the state budget website and instead *requires* all suggested information except that relating to non-operating budgets to be included.

The bill amends the requirement that the JLAC recommend a format for collecting and displaying information from educational entities, local governmental units, and other governmental entities, as described later in the analysis.

The bill amends the requirement that the JLAC develop a schedule for adding additional information to the state budget website, as described later in the analysis.

Single Access Website

The bill requires the EOG, in consultation with the appropriations committees of the Senate and the House of Representatives, to establish and maintain a single website that provides access to all other websites required by the act.

State Fiscal Planning Website

The bill requires the EOG, in consultation with the Senate and House of Representatives appropriations committees, to establish and maintain a website that provides information relating to state fiscal planning. Whereas the state budget website provides information for *approved* budgets and related data, the bill requires the state fiscal planning website to include information submitted prior to the adoption of a budget, including proposals and requests that may never take effect. Such information must include, but is not limited to:

- The long-range financial outlook adopted by the Legislative Budget Commission.⁵⁷
- The instructions to the agencies relating to legislative budget requests, capital improvement plans, and long-range program plans.
- The legislative budget requests submitted by each state agency or branch of government, and any amendments to such requests.
- The capital improvement plans submitted by each state agency or branch of state government.
- The long-range program plans submitted by each state agency or branch of state government.
- The Governor's budget recommendation submitted pursuant to s. 216.163, F.S.⁵⁸

⁵⁷ The joint Legislative Budget Commission is required to annually issue a long-range financial outlook setting out recommended fiscal strategies for the state and its departments and agencies in order to assist the legislature in making budget decisions (FLA. CONST., art. III, s. 19(c)(1)).

The bill requires the state fiscal planning data to be searchable by fiscal year, agency, appropriation category, and keywords.

The bill requires the Office of Policy and Budget in the EOG to ensure that all data added to the website remains accessible to the public for 10 years.

Employee and Officer Information Website

The bill requires the Department of Management Services⁵⁹ (DMS) to establish and maintain a website that provides current information relating to each employee or officer of a state agency, state university, or the State Board of Administration,⁶⁰ regardless of the appropriation category from which the person is paid. For each employee or officer, the information must include, at a minimum, his or her:

- Name and salary or hourly rate of pay.
- Position number, class code, and class title.
- Employing agency and budget entity.

The bill requires the employee and officer information to be searchable by state agency, state university, and the State Board of Administration, and by employee name, salary range, or class code. The bill also requires the information to be downloadable in a format that allows offline analysis.

JLAC Duties

The bill reorganizes and amends the JLAC's duty to recommend a format for collecting and displaying information on the state budget website from educational entities, local governmental units, and other governmental units and to develop a schedule for adding additional information to the state budget website to:

- Co-locate the requirements and amend the effective date of the requirements from November 1, 2012 to November 1, 2013.
- Make the requirements applicable to all websites required by the act.
- Relocates *suggested* information relating to disbursements and revenues to the information that the bill *requires* be included on the state budget website, as described above in the analysis.

State Contract Management System

Terms and Applicability

⁵⁸ Section 216.163, F.S., specifies requirements for the Governor's recommended budget.

⁵⁹ The DMS provides administrative and support services to other state agencies and to state employees (*see* www.dms.myflorida.com, last visited March 5, 2013)).

⁶⁰ The State Board of Administration is composed of the Governor, the CFO, and the Attorney General (FLA. CONST., art. IV, s. 4(e)). Its duties include, but are not limited to, the management of state investment fund such as the Florida Retirement System Pension Plan and Investment Plan (*see* <http://www.sbafla.com/fsb/TheFundsWeManage/tabid/731/Default.aspx>, last visited March 5, 2013)).

The bill changes the description of the contract system that must be maintained by the CFO from “a state contract management system” to “a secure, shared state contract tracking system.” It also specifies that the system must be available via a website.⁶¹

The bill also changes the entities to which the contract reporting requirements apply from “governmental entities” to “state agencies.”⁶²

Public Access

Pursuant to ss. 119.01 and 119.07, F.S.,⁶³ the bill authorizes the CFO to make information posted on the system available for viewing and downloading by the public through a website. The bill specifies that unless otherwise provided by law, information retrieved electronically through that requirement is not admissible in court as an authenticated document.

Protection of Information Posted to the System

The bill requires the CFO to use appropriate Internet security measures to ensure that no person has the ability to alter or modify records available on the website.

The bill prohibits posted records from revealing exempt or confidential information. Notice of the right of an affected party to request redaction of exempt or confidential information must be displayed on the website.

Timing Requirements

The bill clarifies that required information must be posted to the system within 30 *calendar* days of execution of a new contract or a major change to an existing contract.

Informational Requirements

The bill adds the following categories to the information required to be posted:

- Name of the contracting vendor.
- Applicable contract unit prices and deliverables.
- All payments made to the contractor to date.
- If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any.
- Electronic copies of the contract and procurement documents that have been redacted to conceal exempt or confidential information, as provided below.

The bill deletes the following categories from the information required to be posted:

- Any contract violations.

⁶¹ This change somewhat codifies current practice, as the CFO currently makes its FACTS database available via <http://www.myfloridacfo.com/transparency/> (last visited March 5, 2013). However, the CFO does not currently make all contracts available via the website.

⁶² “State agency” is not defined in ch. 215, F.S.; however, the definition of “state agency” in s. 216.011(qq), F.S., may apply (see footnote 5 for that definition and footnote 15 for the definition of “governmental entity”).

⁶³ Section 119.01, F.S., provides, in part, that it is the policy of the state that all state, county, and municipal records are open for personal inspection and copying by any person. Section 119.07, F.S., provides, in part, that every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

- The number of extensions or renewals.
- The statutory authority for providing the service.

Redaction of Protected Information

The bill creates provisions governing redaction from posted contracts of information that is exempt from public records requirements or otherwise confidential.

It requires each state agency to redact any such information from a contract or procurement document before posting an electronic copy of such documents on the system. If a state agency becomes aware that it did not properly redact a posted document, it must immediately notify the CFO for removal. The agency must then provide the CFO with a properly redacted copy within 7 days.

If a party to a contract, or an authorized representative thereof, discovers that posted document has not been properly redacted, it may request the state agency that posted the document to redact the exempt or confidential information. Such request must:

- Be in writing and delivered by mail or electronic transmission, or in person, to the posting agency; and
- Identify the specific document, the page numbers that include the exempt or confidential information, the information that is exempt or confidential, and the relevant statutory exemption.

A fee may not be charged for a redaction made pursuant to such a request. Upon receipt of a request that meets the requirements, the posting agency must redact the exempt or confidential information. If necessary, a party to a contract may petition the circuit court for an order directing compliance with a valid redaction request.

The bill excludes the CFO, the Department of Financial Services (DFS), or an officer, employee, or contractor thereof, from responsibility for redaction of exempt or confidential information from a document posted by another state agency, and from liability for the failure of the state agency to redact such information. The bill authorizes the CFO to notify the posting agency if a document posted on the system that contains exempt or confidential information is discovered.

Requests and Subpoenas for Copies of Documents

The bill specifies that the posting of information on the system, or the provision of contract information on a website for public viewing and downloading, does not supersede the duty of a state agency to respond to a public record request for such information or to a subpoena for such information.

The bill requires a request for a copy of a contract or procurement document or a certified copy of a contract or procurement document to be made to the state agency that is party to the contract. Such request may not be made to the CFO, the DFS, or an officer, employee, or contractor thereof unless the CFO or DFS is a party to the contract.

The bill requires a subpoena for a copy of a contract or procurement document or certified copy of a contract or procurement document to be served on the state agency that is a party to the contract and that maintains the original documents. The CFO, the DFS, or an officer, employee,

or contractor thereof may not be served a subpoena for those records unless the CFO or DFS is a party to the contract.

Rulemaking Authority

The bill authorizes the CFO to adopt rules to administer the state contract tracking system, including procedures and requirements for submitting and updating the information and required documentation relating to contracts.

The bill specifically authorizes the CFO to regulate and prohibit the posting of records that could:

- Facilitate identity theft or fraud such as signatures;
- Compromise or reveal an agency investigation;
- Reveal the identity of undercover personnel;
- Reveal proprietary business information or trade secrets;
- Reveal an individual's medical information; or
- Reveal any other record or information that the CFO believes may jeopardize the health, safety, or welfare of the public.

Appropriation

The bill provides an appropriation of \$326,775 in recurring funds and \$386,292 in nonrecurring funds from the General Revenue Fund, as well as four full-time equivalent positions with associated salary rate of \$231,409, to the DFS for the 2013-2014 fiscal year to implement the state contract tracking system.

Additional Provisions

The bill also:

- Deletes the exemption for a municipality or special district that has total annual revenues of less than \$10 million.
- Requires the managers of the state budget website, the state fiscal planning website, and the state officer and employee information website to submit to the JLAC information relating to the cost of creating and maintaining their respective websites.

User Experience Task Force

The bill creates a User Experience Task Force to develop and recommend a design for consolidating existing state transparency websites into a single website. The task force will be comprised of four members, one of each of whom will be designated by the Governor, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives (public officers). The public officers may assign staff to assist the task force.

By October 1, 2013, the task force must submit a work plan to the public officers that includes, but is not limited to, a review of:

- All relevant state transparency websites.
- Options for reducing the number of websites without losing detailed data.
- Options for linking expenditure data with related invoices and contracts.

By March 1, 2014, the task force must submit its design recommendation to the public officers. The design must provide an intuitive and cohesive user experience that allows users to move easily between varied types of related data. If necessary, the recommendation may include a complete redesign of data submission and inclusion. The recommendation must include a cost estimate for implementation of the design.

The section creating the task force expires June 30, 2014.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The EOG and DMS will incur indeterminate costs to establish and maintain the new websites required by the bill.

The bill provides a 2013-2014 fiscal year appropriation of \$326,775 in recurring funds and \$386,292 in nonrecurring funds from the General Revenue Fund, as well as four full-time equivalent positions with associated salary rate of \$231,409, to the DFS for implementation of the state contract tracking system.

State agencies will likely incur indeterminate costs to comply with the redaction requirements for the state contract tracking website.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Rulemaking

The constitutional separation of powers doctrine⁶⁴ prevents the Legislature from delegating its constitutional duties.⁶⁵ Because legislative power involves the exercise of policy-related discretion over the content of law,⁶⁶ any discretion given an executive branch agency to implement a law must be “pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”⁶⁷ The bill provides the CFO general rulemaking authority to implement the state contract tracking system and also authorizes the CFO to regulate and prohibit the posting of records that may jeopardize the health, safety, or welfare of the public. It is unclear whether those provisions provide sufficient minimal standards and guidelines.

It is also unclear whether the bill’s express grant of rulemaking authority to the CFO is intended to exclude the adoption of rules for anything other than procedures and requirements for submitting and updating required contract information.

Public Records

The bill provides a process by which a document posted to the contract tracking management system that has not been properly redacted under the bill’s provisions may be replaced. However, case law provides that once protected information has been made publicly available, it may no longer be withheld by a custodial agency. Therefore, if the document containing exempt or confidential information is posted to the public website, the custodial information may no longer be able to protect the information.

Other Comments

The bill does not specify what is meant by “to the extent possible” for purposes of providing an intuitive user experience.⁶⁸

The bill does not define “major web browser.”⁶⁹

⁶⁴ FLA. CONST., art. II, s. 3.

⁶⁵ See *Florida State Bd. of Architecture v. Wasserman*, 377 So.2d 653 (Fla. 1979).

⁶⁶ See *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719 (Fla. 1937).

⁶⁷ See *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

⁶⁸ Used in lines 66-67 of the bill.

⁶⁹ Used in line 72 of the bill.

The bill does not specify a date by which website managers must submit cost information to the JLAC.⁷⁰

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)
- None.
- B. **Amendments:**
- None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁷⁰ Lines 221-223 of the bill.



749674

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment

Delete lines 380 - 388
and insert:

Officer or the Department of Financial Services is a party to
the contract.

2. A subpoena for a copy of a contract or procurement
document or certified copy of a contract or procurement document
must be served on the state agency that is a party to the
contract and that maintains the original documents. The Chief
Financial Officer or the Department of Financial Services or an
officer, employee, or contractor thereof may not be served a



749674

13 subpoena for those records unless the Chief Financial Officer or
14 the Department of Financial Services is a party to the contract.



457884

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/07/2013	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Between lines 392 and 393
insert:

Section 2. User Experience Task Force.—

(1) The User Experience Task Force is created to develop and recommend a design for consolidating existing state-managed websites that provide public access to state operational and fiscal information into a single website. If necessary, the recommendation may include a complete redesign of data submission and inclusion.

(2) The task force shall be comprised of four members:



457884

13 (a) One member designated by the Governor.

14 (b) One member designated by the Chief Financial Officer.

15 (c) One member designated by the President of the Senate.

16 (d) One member designated by the Speaker of the House of
17 Representatives.

18 (3) The task force shall elect a chair from among its
19 members.

20 (4) The Governor, the Chief Financial Officer, the
21 President of the Senate, and the Speaker of the House of
22 Representatives shall assign staff to assist the task force in
23 performing its duties.

24 (5) By October 1, 2013, the task force shall submit a work
25 plan to the Governor, the Chief Financial Officer, the President
26 of the Senate, and the Speaker of the House of Representatives.
27 The work plan must include, but is not limited to, a review of:

28 (a) All relevant state-managed websites.

29 (b) Options for reducing the number of websites without
30 losing detailed data.

31 (c) Options for linking expenditure data with related
32 invoices and contracts.

33 (6) By March 1, 2014, the task force shall submit its
34 complete recommendation to the Governor, the Chief Financial
35 Officer, the President of the Senate, and the Speaker of the
36 House of Representatives. The recommended design must provide an
37 intuitive and cohesive user experience that allows users to move
38 easily between varied types of related data. The recommendation
39 must also include a cost estimate for implementation of the
40 design.

41 (7) This section expires June 30, 2014.



457884

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 34

and insert:

Chief Financial Officer to adopt rules; creating the
User Experience Task Force to develop and recommend a
design for consolidating existing state-managed
websites; providing for membership; providing for
staffing; requiring reports; providing for expiration;
providing for

FOR CONSIDERATION By the Committee on Governmental Oversight and Accountability

585-01632C-13

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1 A bill to be entitled
 2 An act relating to transparency in government
 3 spending; amending s. 215.985, F.S.; adding a
 4 definition; requiring the Executive Office of the
 5 Governor to establish a single website providing
 6 access to other websites; revising provisions relating
 7 to the establishment of a website relating to the
 8 approved operating budget; requiring the office to
 9 establish a website providing information about fiscal
 10 planning for the state and specifying the information
 11 to be included on the website; requiring the
 12 Department of Management Services to maintain a
 13 website that provides current information on state
 14 employees and officers; revising provisions requiring
 15 the Legislative Auditing Committee to provide
 16 recommendations to the Legislature about adding other
 17 information to a website; requiring website managers
 18 to provide information about the cost of creating and
 19 maintaining each website; revising provisions relating
 20 to access to the state contract management system to
 21 require that such information be accessible through a
 22 website; requiring state agencies to post certain
 23 information on the system and to update that
 24 information; requiring that exempt and confidential
 25 information be redacted from contracts and procurement
 26 documents posted on the system; providing procedures
 27 for removing such information from the system;
 28 authorizing the Chief Financial Officer to make
 29 certain information available on a website for viewing

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 and downloading by the public and providing guidelines
 31 for regulation of such website; providing
 32 applicability of public record requests for
 33 information posted on the website; authorizing the
 34 Chief Financial Officer to adopt rules; providing for
 35 an appropriation; providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Section 215.985, Florida Statutes, is reordered
 40 and amended to read:
 41 215.985 Transparency in government spending.—
 42 (1) This section may be cited as the "Transparency Florida
 43 Act."
 44 (2) As used in this section, the term:
 45 (c) (a) "Governmental entity" means a ~~any~~ state, regional,
 46 county, municipal, special district, or other political
 47 subdivision whether executive, judicial, or legislative,
 48 including, but not limited to, a ~~any~~ department, division,
 49 bureau, commission, authority, district, or agency thereof, or
 50 ~~any~~ public school, Florida College System institution, state
 51 university, or associated board.
 52 (d) (b) "Website" means a site on the Internet which is
 53 easily accessible to the public at no cost and does not require
 54 the user to provide ~~any~~ information.
 55 (a) (c) "Committee" means the Legislative Auditing Committee
 56 created in s. 11.40.
 57 (b) "Contract" means a written agreement or purchase order
 58 issued for the purchase of goods or services, or written

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 agreement for the receipt of state or federal financial
60 assistance.

61 (3) The Executive Office of the Governor, in consultation
62 with the appropriations committees of the Senate and the House
63 of Representatives, shall establish and maintain a single
64 website that provides access to all other websites required by
65 this section. Such single website and other websites must:

66 (a) Be constructed for usability that, to the extent
67 possible, provides an intuitive user experience.

68 (b) Provide a consistent visual design, interaction or
69 navigation design, and information or data presentation.

70 (c) Be deployed in compliance with the Americans with
71 Disabilities Act.

72 (d) Be compatible with all major web browsers.

73 (4)(3) The Executive Office of the Governor, in
74 consultation with the appropriations committees of the Senate
75 and the House of Representatives, shall establish and maintain a
76 single website that, directly accessible through the state's
77 official Internet portal, which provides information relating to
78 the approved operating budget each appropriation in the General
79 Appropriations Act for each branch of state government and state
80 agency.

81 (a) At a minimum, the information ~~provided~~ must include:

82 1. Disbursement data for each appropriation by the object
83 code associated with each expenditure established within the
84 Florida Accounting Information Resource Subsystem. Expenditure
85 data must include the name of the payee, the date of the
86 expenditure, the amount of the expenditure, and the statewide
87 document number. Such data must be searchable by the name of the

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88 payee, the paying agency, and fiscal year, and must be
89 downloadable in a format that allows offline analysis.

90 2. For each appropriation, any adjustments, including
91 vetoed, approved supplemental appropriations included in
92 legislation other than the General Appropriations Act, budget
93 amendments, other actions approved pursuant to chapter 216, and
94 any other adjustments authorized by law.

95 3. Status of spending authority for each appropriation in
96 the approved operating budget, including released, unreleased,
97 reserved, and disbursed balances.

98 4. Position and rate information for positions provided in
99 the General Appropriations Act or approved through an amendment
100 to the approved operating budget and position information for
101 positions established in the legislative branch.

102 5. Allotments for planned expenditures of state
103 appropriations established by state agencies in the Florida
104 Accounting Information Resource Subsystem, and the current
105 balances of such allotments.

106 6. Trust fund balance reports, including cash available,
107 investments, and receipts.

108 7. General revenue fund balance reports, including revenue
109 received and amounts disbursed.

110 8. Fixed capital outlay project data, including original
111 appropriation and disbursements throughout the life of the
112 project.

113 9. A 10-year history of appropriations indicated by agency.

114 10. Links to state audits or reports related to the
115 expenditure and dispersal of state funds.

116 11. Links to program or activity descriptions for which

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117 funds may be expended.

118 (b) All data provided through the website must be data
119 currently available in the state's financial management
120 information system referenced in s. 215.93. The Office of Policy
121 and Budget in the Executive Office of the Governor shall ensure
122 that all data added to the website remains accessible to the
123 public for 10 years.

124 ~~(4) The committee shall propose providing additional state~~
125 ~~fiscal information, which may include, but is not limited to,~~
126 ~~the following information for state agencies:~~

127 ~~(a) Details of nonoperating budget authority established~~
128 ~~pursuant to s. 216.181.~~

129 ~~(b) Trust fund balance reports, including cash available,~~
130 ~~investments, and receipts.~~

131 ~~(c) General revenue fund balance reports, including revenue~~
132 ~~received and amounts disbursed.~~

133 ~~(d) Fixed capital outlay project data, including original~~
134 ~~appropriation and disbursements throughout the life of the~~
135 ~~project.~~

136 ~~(e) A 10 year history of appropriations indicated by~~
137 ~~agency.~~

138 ~~(f) Links to state audits or reports related to the~~
139 ~~expenditure and dispersal of state funds.~~

140 ~~(g) Links to program or activity descriptions for which~~
141 ~~funds may be expended.~~

142 (5) The Executive Office of the Governor, in consultation
143 with the appropriations committees of the Senate and the House
144 of Representatives, shall establish and maintain a website that
145 provides information relating to fiscal planning for the state.

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146 (a) At a minimum, the information must include:

147 1. The long-range financial outlook adopted by the
148 Legislative Budget Commission.

149 2. The instructions to the agencies relating to legislative
150 budget requests, capital improvement plans, and long-range
151 program plans.

152 3. The legislative budget requests submitted by each state
153 agency or branch of state government, and any amendments to such
154 requests.

155 4. The capital improvement plans submitted by each state
156 agency or branch of state government.

157 5. The long-range program plans submitted by each state
158 agency or branch of state government.

159 6. The Governor's budget recommendation submitted pursuant
160 to s. 216.163.

161 (b) The data must be searchable by fiscal year, agency,
162 appropriation category, and keywords.

163 (c) The Office of Policy and Budget in the Executive Office
164 of the Governor shall ensure that all data added to the website
165 remains accessible to the public for 10 years.

166 ~~(5) The committee shall recommend a format for collecting~~
167 ~~and displaying information from state universities, Florida~~
168 ~~College System institutions, school districts, charter schools,~~
169 ~~charter technical career centers, local governmental units, and~~
170 ~~other governmental entities.~~

171 (6) The Department of Management Services shall establish
172 and maintain a website that provides current information
173 relating to each employee or officer of a state agency, state
174 university, or the State Board of Administration, regardless of

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the appropriation category from which the person is paid.

(a) For each employee or officer, the information must include, at a minimum, his or her:

1. Name and salary or hourly rate of pay.

2. Position number, class code, and class title.

3. Employing agency and budget entity.

(b) The information must be searchable by state agency, state university, and the State Board of Administration, and by employee name, salary range, or class code and must be downloadable in a format that allows offline analysis.

(7) ~~(6)~~ By November 1, 2013 ~~2012~~, and annually thereafter, the committee shall recommend to the President of the Senate and the Speaker of the House of Representatives:

(a) Additional information to be added to a website, such as whether to expand the scope of the information provided to include state universities, Florida College System institutions, school districts, charter schools, charter technical career centers, local government units, and other governmental entities.

(b) ~~develop~~ A schedule for adding ~~additional~~ information to the website by type of information and governmental entity, including timeframes and development entity.

(c) A format for collecting and displaying the additional information. ~~The schedule for adding additional information shall be submitted to the President of the Senate and the Speaker of the House of Representatives. Additional information may include:~~

~~(a) Disbursements by the governmental entity from funds established within the treasury of the governmental entity,~~

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~~including, for all branches of state government, allotment balances in the Florida Accounting Information Resource Subsystem.~~

~~(b) Revenues received by each governmental entity, including receipts or deposits by the governmental entity into funds established within the treasury of the governmental entity.~~

~~(c) Information relating to a governmental entity's bonded indebtedness, including, but not limited to, the total amount of obligation stated in terms of principal and interest, an itemization of each obligation, the term of each obligation, the source of funding for repayment of each obligation, the amounts of principal and interest previously paid to reduce each obligation, the balance remaining of each obligation, any refinancing of any obligation, and the cited statutory authority to issue such bonds.~~

~~(d) Links to available governmental entity websites.~~

(8) ~~(7)~~ The manager of each website described in subsections (4), (5), and (6) shall submit to the committee information relating to the cost of creating and maintaining such website, and ~~A counter shall be established on the website to show the~~ number of times the website has been accessed.

~~(8) By August 31 of each fiscal year, each executive branch agency, the state court system, and the Legislature shall establish allotments in the Florida Accounting Information Resource Subsystem for planned expenditures of state appropriations.~~

(9) The committee shall coordinate with the Financial Management Information Board in developing ~~any~~ recommendations

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for including information on the website which is necessary to meet the requirements of s. 215.91(8).

(10) Functional owners as described ~~defined~~ in s. 215.94 and other governmental entities shall provide information necessary to accomplish the purposes of this section.

~~(11) A municipality or special district that has total annual revenues of less than \$10 million is exempt from this section.~~

~~(11)(12)~~ By September 1, 2011, Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website.

~~(12)(13)~~ This section does not require or permit the disclosure of information that is considered confidential under ~~by~~ state or federal law.

~~(14) The Office of Policy and Budget in the Executive Office of the Governor shall ensure that all data added to the website remains accessible to the public for 10 years.~~

~~(13)(15)~~ The committee shall prepare an annual report detailing progress in establishing the single website and providing recommendations for enhancement of the content and format of the website and related policies and procedures. The ~~first~~ report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by ~~November 1, 2011, and annually by~~ November 1 ~~thereafter~~.

~~(14)(16)~~ The Chief Financial Officer shall establish and maintain a secure, shared state contract tracking system accessible through a website to provide public access to a state contract management system that provides information and

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documentation relating to contracts procured by state agencies ~~governmental entities~~.

(a) Within 30 calendar days after executing a contract, each state agency must post the following information and documentation relating to that contract on the system:

1. The names of the contracting entities.
2. The procurement method.
3. The contract beginning and ending dates.
4. The nature or type of commodities or services purchased.
5. Applicable contract unit prices and deliverables.
6. Total compensation to be paid or received under the contract.
7. All payments made to the contractor to date.
8. Applicable contract performance measures.
9. If a competitive solicitation was not used to procure the goods or services, the justification of such action, including citation to a statutory exemption or exception from competitive solicitation, if any.
10. Electronic copies of the contract and procurement documents that have been redacted to conceal exempt or confidential information as provided under paragraph (c). ~~The data collected in the system must include, but need not be limited to, the contracting agency; the procurement method; the contract beginning and ending dates; the type of commodity or service; the purpose of the commodity or service; the compensation to be paid; compliance information, such as performance metrics for the service or commodity; contract violations; the number of extensions or renewals; and the statutory authority for providing the service.~~

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291 (b) Within 30 calendar days after a major modification or
 292 amendment ~~change~~ to an existing contract, or the execution of a
 293 ~~new contract, agency procurement staff of~~ the affected state
 294 governmental entity shall update the necessary information and
 295 documentation described in paragraph (a) in the state contract
 296 tracking ~~management~~ system. A major modification or amendment
 297 ~~change~~ to a contract includes, but is not limited to, a renewal,
 298 termination, or extension of the contract, or an amendment to
 299 the contract as determined by the Chief Financial Officer.

300 (c) Each state agency shall redact, as defined in s.
 301 119.011, information that is exempt from s. 119.07(1) and Art.
 302 I, s. 24(a) of the State Constitution, or that is otherwise made
 303 confidential by law, from the contract or procurement documents
 304 before posting an electronic copy of such documents on the state
 305 contract tracking system.

306 1. If a state agency becomes aware that an electronic copy
 307 of a contract or procurement document that it posted has not
 308 been properly redacted, the state agency shall immediately
 309 notify the Chief Financial Officer so that the contract or
 310 procurement document can be removed. Within 7 calendar days, the
 311 state agency shall provide the Chief Financial Officer with a
 312 properly redacted copy for posting.

313 2. If a party to a contract, or an authorized
 314 representative thereof, discovers that an electronic copy of a
 315 contract or procurement document on the system has not been
 316 properly redacted, the party or representative may request the
 317 state agency that posted the document to redact the exempt or
 318 confidential information. Upon receipt of a request in
 319 compliance with this subparagraph, the state agency that posted

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320 the document shall redact the exempt or confidential
 321 information.

322 a. Such request must be in writing and delivered by mail or
 323 electronic transmission, or in person, to the state agency that
 324 posted the information. The request must identify the specific
 325 document, the page numbers that include the exempt or
 326 confidential information, the information that is exempt or
 327 confidential, and the statute that makes the information exempt
 328 or confidential. A fee may not be charged for a redaction made
 329 pursuant to such request.

330 b. If necessary, a party to a contract may petition the
 331 circuit court for an order directing compliance with this
 332 paragraph.

333 3. The Chief Financial Officer, the Department of Financial
 334 Services, or an officer, employee, or contractor thereof, is not
 335 responsible for redacting exempt or confidential information
 336 from an electronic copy of a contract or procurement document
 337 posted by another state agency on the system, and is not liable
 338 for the failure of the state agency to redact the exempt or
 339 confidential information. The Chief Financial Officer may notify
 340 the posting state agency if a document posted on the tracking
 341 system which contains exempt or confidential information is
 342 discovered.

343 (d) Pursuant to ss. 119.01 and 119.07, the Chief Financial
 344 Officer may make information posted on the state contract
 345 tracking system available for viewing and downloading by the
 346 public through a website. Unless otherwise provided by law,
 347 information retrieved electronically pursuant to this paragraph
 348 is not admissible in court as an authenticated document.

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1. The Chief Financial Officer may regulate and prohibit the posting of records that could facilitate identity theft or fraud, such as signatures; compromise or reveal an agency investigation; reveal the identity of undercover personnel; reveal proprietary business information or trade secrets; reveal an individual's medical information; or reveal any other record or information that the Chief Financial Officer believes may jeopardize the health, safety, or welfare of the public. However, such action by the Chief Financial Officer does not supersede the duty of a state agency to provide a copy of a public record upon request. The Chief Financial Officer shall use appropriate Internet security measures to ensure that no person has the ability to alter or modify records available on the website.

2. Records made available on the website, including electronic copies of contracts or procurement documents, may not reveal information made exempt or confidential by law. Notice of the right of an affected party to request redaction of exempt or confidential information pursuant to paragraph (c) must be displayed on the website.

(e) The posting of information on the state contract tracking system, or the provision of contract information on a website for public viewing and downloading, does not supersede the duty of a state agency to respond to a public record request for such information or to a subpoena for such information.

1. A request for a copy of a contract or procurement document or a certified copy of a contract or procurement document shall be made to the state agency that is party to the contract. Such request may not be made to the Chief Financial

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Officer or the Department of Financial Services or an officer, employee, or contractor thereof unless the Chief Financial Officer or the department is a party to the contract.

2. A subpoena for a copy of a contract or procurement document or certified copy of a contract or procurement document must be served on the state agency that is a party to the contract and that maintains the original documents. The Chief Financial Officer or the Department of Financial Services or an officer, employee, or contractor thereof may not be served a subpoena for those records unless the Chief Financial Officer or the department is a party to the contract.

(f) The Chief Financial Officer may adopt rules to administer this subsection, including procedures and requirements for submitting and updating the information and documentation relating to contracts required by this subsection.

Section 2. The sum of \$326,775 in recurring funds and \$386,292 in nonrecurring funds from the General Revenue Fund and four full-time equivalent positions and associated salary rate of 231,409 are appropriated to the Department of Financial Services for the 2013-2014 fiscal year to implement the state contract tracking system.

Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-7-2013

Meeting Date

Topic _____

Bill Number SPB 7026
(if applicable)

Name Logan McFaddin

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director, CFO's office

Address 400 S. Monroe St
Street

Phone 850-413-2863

Tallahassee FL 32399
City State Zip

E-mail Logan.mcfaddin@myfloridacfo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing CFO's office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 244

INTRODUCER: Senator Dean

SUBJECT: Water Management Districts

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	Favorable
2.	McVaney	McVaney	GO	Favorable
3.				
4.				
5.				
6.				

I. Summary:

SB 244 provides the water management districts (WMDs, districts) with guidance concerning minimum flows and levels (MFLs), water reservations, recovery or prevention strategies, and multi-district projects by:

- requiring proposed water reservations and water bodies that may be affected by water withdrawals in an adjacent water management district to be identified on a district's annual MFL priority list and schedule;
- directing the WMDs to provide technical information and staff support to the Department of Environmental Protection (DEP, department) when the department proposes adoption of a reservation, MFL, or recovery or prevention strategy by rule;
- requiring the WMDs to apply any reservation, MFL, or recovery or prevention strategy adopted by the DEP to the applicable water body without having to adopt its own district rules;
- authorizing WMDs to enter into interagency agreements designating a single district to conduct or fund non-regulatory water management activities or projects that cross district boundaries;
- providing for joint regional water supply planning between WMDs and affected regional water supply authorities; and
- excluding WMD cooperative funding programs from rulemaking requirements.

This bill substantially amends the following sections of the Florida Statutes: 373.042, 373.046, 373.171, and 373.709.

II. Present Situation:

MFL Priority Lists and Rules

The WMDs were established along surface hydrological boundaries. As Florida's population has grown and groundwater pumping increased, withdrawals along the boundary of one WMD can cause significant harm to the resources in an adjoining WMD. Such effects are becoming more common as technological advances have provided better data on groundwater resources. While a WMD has the authority to protect all water resources, including water bodies in an adjacent WMD, it cannot use the adopted reservation, MFL, and recovery and prevention strategies adopted by a neighboring WMD without separately going through its own rulemaking process. The current statutory authority may result in duplication of effort and rulemaking activity when a withdrawal affects water bodies in adjoining WMDs. It can also create inconsistent and inequitable treatment of water use permit applicants.

The goal of establishing MFLs is to ensure there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource. By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating a new consumptive use permit (CUP) application.

Section 373.042, F.S., requires the DEP or WMDs to establish MFLs for priority water bodies to prevent significant harm from water withdrawals. While the DEP has the authority to adopt MFLs under ch. 373, F.S., the WMDs have the primary responsibility for MFL adoption and all MFL adoption to date has been by the WMDs. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are considered rules by the WMDs and are subject to ch. 120, F.S., challenges. MFLs are established using the best available data and are subject to independent scientific peer review at the election of the WMD, or, if requested, by a third party.

Interagency Agreements

Section 373.046(6), F.S., currently provides that when the geographic area of a project or local government crosses WMD boundaries, the affected districts may enter into an interagency agreement that designates a single district to implement the regulatory responsibilities under ch. 373, F.S. However, no similar authority explicitly exists for designating a single district to implement non-regulatory water management activities or responsibilities that cross district boundaries. In addition, a WMD may not fund resource management activities in another WMD even if some benefits inure to it from the activities.

Cooperative Funding Programs

Section 373.171, F.S., authorizes WMD governing boards to adopt rules affecting the use of water.¹ The WMDs currently operate cooperative funding programs including programs related

¹ The state Administrative Procedure Act (ch. 120, F.S.) requires any agency statement of general applicability that interprets, implements, or prescribes law or policy to be adopted by rule (ss. 120.52(16) and 120.54(1)(a), F.S.). Section 120.52(1), F.S.,

to water supply development. The districts generally do not have rules relating to the operation of these programs.

Regional Water Supply Planning

The WMDs are required to conduct water supply needs assessments. A WMD that determines existing resources will not be sufficient to meet reasonable-beneficial uses² for the planning period must prepare a regional water supply plan³. The plans must contain:

- a water supply development component;
- a water resource development component;
- a recovery and prevention strategy;
- a funding strategy;
- the impacts on the public interest, costs, natural resources, etc.;
- technical data and information;
- any MFLs established for the planning area;
- the water resources for which future MFLs must be developed; and
- an analysis of where variances may be used to create water supply development or water resource development projects.⁴

Currently, only the Southwest Florida Water Management District (SWFWMD) is required to jointly develop the water supply development component with a regional water supply authority.⁵ A regional water supply authority is created by interlocal agreement between the counties, cities, and special districts for the purpose of developing, recovering, storing, and

defines “agency” to mean the following officers or governmental entities if acting pursuant to powers other than those derived from the constitution:

- the Governor;
- each state officers and state department, and each departmental unit described in s. 20.04, F.S.;
- the Board of Governors of the State University System;
- the Commission on Ethics;
- the Fish and Wildlife Conservation Commission;
- a regional water supply authority;
- a regional planning agency;
- a multi-county special district, but only when a majority of its governing board is comprised of nonelected persons;
- educational units;
- each entity described in chapters 163 (intergovernmental programs), 373 (water resources), 380 (land and water management), and 582 (soil and water conservation), F.S.;
- each entity described in s. 186.504, F.S. (regional planning councils);
- each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county; or
- each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to this act by general or special law or existing judicial decisions.

An agency may not adopt a rule without a grant of rulemaking authority by the Legislature (s. 120.536(1), F.S.).

² Section 373.019(16), F.S., defines “reasonable-beneficial use” to mean the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.

³ See s. 373.709, F.S.

⁴ Section 373.709(2), F.S.

⁵ Section 373.709(3), F.S.

supplying water for county or municipal purposes.⁶ The authority has the power to levy ad valorem taxes up to 0.5 million if the tax is approved by a majority vote of the electors residing in the county or city.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 373.042(2), F.S., to require the WMDs to include proposed water reservations and water bodies that may be affected by water withdrawals in an adjacent district in their annual MFL priority lists and schedules. The bill also adds a new subsection requiring a WMD to provide technical information and staff support to the DEP when the department proposes adoption by rule of a reservation, MFL, or recovery or prevention strategy. In addition, the bill requires a WMD to apply any reservation, MFL, or recovery or prevention strategy adopted by the DEP to the applicable water body without having to adopt its own rules concerning that water body.

Section 2 amends s. 373.046 F.S., to provide clear legislative authority for the WMDs to enter into interagency agreements to share funding and resource management responsibilities for activities, studies, or projects for resources that affect multiple WMDs in a geographic area. This section does not apply to shared regulatory responsibilities already provided for in s. 373.046(6), F.S. In addition, this section allows a WMD to provide funding assistance to another WMD for resource management activities, studies, or projects if the funding WMD receives some or all of the benefits of the resource management activities. The bill also clarifies that it does not impair any interagency agreement in effect on July 1, 2013.

Section 3 amends s. 373.171, F.S., to clarify that a WMD's cooperative funding programs are not subject to ch. 120, F.S., rulemaking requirements. However, parties may challenge the program pursuant to s. 120.569, F.S.,⁸ if any part of the program affects their substantial interests. The bill is not expected to change the existing situation.

Section 4 amends s. 373.709, F.S., to broaden the existing provision that requires joint water supply planning between the SWFWMD and affected regional water supply authorities to apply statewide. Since the two active regional water supply authorities in the state are located within the SWFWMD, and all the WMDs currently closely coordinate with affected utilities in the development of their regional water supply plans, this section is not expected to substantially change the existing situation.

Section 5 provides an effective date of July 1, 2013.

⁶ Section 373.713(1), F.S.

⁷ Section 373.713 (2), F.S.

⁸ Section 120.569, F.S., governs proceedings in which a party challenges an agency action that affects the party's substantial interests. A party asserting entitlement to an administrative hearing pursuant to s. 120.569, F.S., must demonstrate that:

- it will suffer an injury in fact which is of sufficient immediacy to entitle it to a s. 120.569, F.S., hearing; and
- its substantial injury is of a type or nature which the proceeding is designed to protect. *See Washington County v. Northwest Florida Water Management Dist.*, 85 So.3d 1127 (Fla. 1st DCA 2012).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

When a district provides staff support to the DEP for the department's adoption of a reservation, MFL, or recovery or prevention strategy, the district will pay the salaries of the employees who provide assistance. This may reduce the amount of salary dollars available for other planned projects within the district. Because the rule adopted by the department can be used by all affected WMDs without additional rulemaking, there will be an indeterminate savings of rulemaking costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Dean

5-00393-13

2013244

A bill to be entitled

An act relating to water management districts; amending s. 373.042, F.S.; requiring water management districts to include certain reservations and water bodies in priority lists and schedules; providing for the adoption of certain reservations and minimum flows and levels by the Department of Environmental Protection; requiring water management districts to apply, without adopting by rule, the reservations, minimum flows and levels, and recovery and prevention strategies adopted by the department; amending s. 373.046, F.S.; authorizing water management districts to enter into interagency agreements for resource management activities under specified conditions; providing applicability; amending s. 373.171, F.S.; exempting cooperative funding programs from certain rulemaking requirements; amending s. 373.709, F.S., relating to regional water supply planning; removing a reference to the Southwest Florida Water Management District; requiring a regional water supply authority and the applicable water management district to jointly develop the water supply component of the regional water supply plan; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (4) and (5) of section 373.042, Florida Statutes, are renumbered as subsections (5) and (6),

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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respectively, a new subsection (4) is added to that section, and subsection (2) of that section is amended, to read:

373.042 Minimum flows and levels.—

(2) By November 15, 1997, and annually thereafter, each water management district shall submit to the department for review and approval a priority list and schedule for the establishment of minimum flows and levels for surface watercourses, aquifers, and surface waters within the district. The priority list and schedule shall ~~also~~ identify those listed water bodies for which the district will voluntarily undertake independent scientific peer review; any reservations proposed by the district to be established pursuant to s. 373.223(4); and those listed water bodies that have the potential to be affected by withdrawals in an adjacent district for which the department's adoption of a reservation pursuant to s. 373.223(4) or a minimum flow or level pursuant to subsection (1) may be appropriate. By March 1, 2006, and annually thereafter, each water management district shall include its approved priority list and schedule in the consolidated annual report required by s. 373.036(7). The priority list shall be based upon the importance of the waters to the state or region and the existence of or potential for significant harm to the water resources or ecology of the state or region, and shall include those waters which are experiencing or may reasonably be expected to experience adverse impacts. Each water management district's priority list and schedule shall include all first magnitude springs, and all second magnitude springs within state or federally owned lands purchased for conservation purposes. The specific schedule for establishment of spring minimum flows

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and levels shall be commensurate with the existing or potential threat to spring flow from consumptive uses. Springs within the Suwannee River Water Management District, or second magnitude springs in other areas of the state, need not be included on the priority list if the water management district submits a report to the Department of Environmental Protection demonstrating that adverse impacts are not now occurring nor are reasonably expected to occur from consumptive uses during the next 20 years. The priority list and schedule is ~~shall~~ not be subject to any proceeding pursuant to chapter 120. Except as provided in subsection (3), the development of a priority list and compliance with the schedule for the establishment of minimum flows and levels pursuant to this subsection satisfies ~~shall satisfy~~ the requirements of subsection (1).

(4) A water management district shall provide the department with technical information and staff support for the development of a reservation, minimum flow or level, or recovery or prevention strategy to be adopted by the department by rule. A water management district shall apply any reservation, minimum flow or level, or recovery or prevention strategy adopted by the department by rule without the district's adoption by rule of such reservation, minimum flow or level, or recovery or prevention strategy.

Section 2. Subsection (7) is added to section 373.046, Florida Statutes, to read:

373.046 Interagency agreements.—

(7) If the geographic area of a resource management activity, study, or project crosses water management district boundaries, the affected districts may designate a single

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affected district to conduct all or part of the applicable resource management responsibilities under this chapter, with the exception of those regulatory responsibilities that are subject to subsection (6). If funding assistance is provided to a resource management activity, study, or project, the district providing the funding must ensure that some or all of the benefits accrue to the funding district. This subsection does not impair any interagency agreement in effect on July 1, 2013.

Section 3. Subsection (5) is added to section 373.171, Florida Statutes, to read:

373.171 Rules.—

(5) Cooperative funding programs are not subject to the rulemaking requirements of chapter 120. However, any portion of an approved program which affects the substantial interests of a party is subject to s. 120.569.

Section 4. Subsection (3) of section 373.709, Florida Statutes, is amended to read:

373.709 Regional water supply planning.—

(3) The water supply development component of a regional water supply plan which deals with or affects public utilities and public water supply for those areas served by a regional water supply authority and its member governments ~~within the boundary of the Southwest Florida Water Management District~~ shall be developed jointly by the authority and the applicable water management district. In areas not served by regional water supply authorities, or other multijurisdictional water supply entities, and where opportunities exist to meet water supply needs more efficiently through multijurisdictional projects identified pursuant to paragraph (2)(a), water management

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117 districts are directed to assist in developing
118 multijurisdictional approaches to water supply project
119 development jointly with affected water utilities, special
120 districts, and local governments.

121 Section 5. This act shall take effect July 1, 2013.

Wave

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 7, 2013

Meeting Date

Topic Water Management Districts Bill Number SB 244
(if applicable)

Name Steven Minnis Amendment Barcode _____
(if applicable)

Job Title Governmental Affairs and Communications Director

Address 9225 CR 49 Phone 386.362.1001
Street

Live Oak FL 32060
City State Zip

E-mail sam@srwmd.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Suwannee River Water Management District

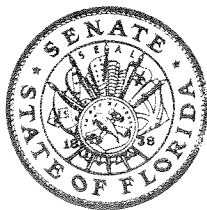
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.

5th District

February 6, 2013

The Honorable Jeremy Ring
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

RECEIVED
FEB 08 2013

GOVERNMENTAL OPERATIONS

Dear Chairman Ring:

I respectfully request you place Senate Bill 244, relating to Water Management Districts, be placed on your Government Oversight and Accountability Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Joe McVaney, Staff Director

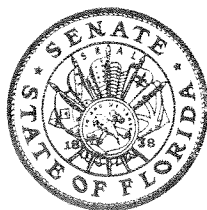
REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

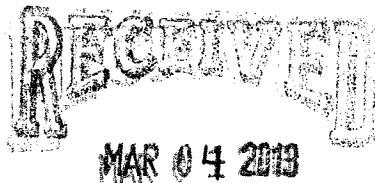
Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.
5th District

March 4, 2013

The Honorable Jeremy Ring
405 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100



GOVERNMENTAL OPERATIONS

Dear Chairman Ring:

Thank you for allowing Senate Bill 244, relating to Water Management Districts, to be placed on your agenda. Unfortunately, I will be unable to attend the Committee meeting and would like to request your permission to allow my aide, Nicholas Abrahams, to present this bill in my place.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Charles S. Dean
State Senator, District 5

Cc: Joe McVaney, Staff Director

REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 366

INTRODUCER: Committee on Governmental Oversight and Accountability and Senator Hukill

SUBJECT: State Poet Laureate

DATE: March 7, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Naf	McVaney	GO	Fav/CS
2.			ED	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 366 creates the position of State Poet Laureate and provides requirements for the selection, terms of service, and duties of the State Poet Laureate. It also provides for the designation of past State Poets Laureate as State Poets Laureate Emeritus or Emerita. The position of State Poet Laureate was created by governor's proclamation in 1928, but is not addressed in current statutory law.

The bill assigns the Florida Council on Arts and Culture certain responsibilities relating to the promotion of poetry and grants the Department of State rulemaking authority to implement the bill's provisions.

This bill substantially amends sections 265.285 and 265.2863, Florida Statutes.

II. Present Situation:

Florida Council on Arts and Culture

The Florida Council on Arts and Culture is an advisory body within the Department of State.¹ Its duties are to:

- Advocate for arts and culture;
- Advise the Secretary of State in matters pertaining to arts and cultural programs and grants administered by the Division of Cultural Affairs;²
- Encourage the participation in and appreciation of arts and culture;
- Encourage public interest in the state's cultural heritage and expand its resources;
- Encourage and assist freedom of artistic expression;
- Advise the Secretary of State in matters concerning the awarding of grants for arts and culture; and
- Review applications for grants for the acquisition, renovation, or construction of cultural facilities and recommend a priority for the receipt of such grants.³

State Poets Laureate

Generally

As of January 2013, 42 states had an official State Poet Laureate position.⁴ Duties of such poets laureate vary, but all involve the promotion of the reading, writing, and appreciation of poetry.⁵

In Florida

In 1928, the position of Poet Laureate of the State of Florida was established by governor's proclamation.⁶ The position is a lifetime appointment.⁷ Three poet laureates have been appointed since the inception of the position.⁸

Current statutory law does not contain provisions relating to a state poet laureate.

¹ Section 265.285(1)(a), F.S.

² The Division of Cultural Affairs of the Department of State is the state arts administrative agency. Among its duties are the acceptance and administration of state and federal funds provided for the fine arts, grants, and certain programs. *See s.* 265.284, F.S.

³ Section 265.285(2), F.S.

⁴ *See* "Frequently Asked Questions," U.S. State Poets Laureate, Library of Congress, <http://www.loc.gov/rr/main/poets/current.html> (last visited March 1, 2013).

⁵ *Id.*

⁶ *See* "U.S. State Poets Laureate, Florida," Library of Congress, <http://www.loc.gov/rr/main/poets/florida.html> (last visited March 1, 2013).

⁷ *See id.* and "Florida's Poet Laureate," Florida Division of Cultural Affairs, <http://www.florida-arts.org/programs/poetlaureate/> (last visited March 1, 2013).

⁸ The position is currently vacant, as the most recent state poet laureate, Edmund Skellings, passed away in August 2012. He was appointed by Governor Robert Graham in 1980, after a competition and selection by an anonymous national panel. *See* "Florida's Poet Laureate," Florida Division of Cultural Affairs, <http://www.florida-arts.org/programs/poetlaureate/> (last visited March 1, 2013).

III. Effect of Proposed Changes:

Summary

The bill creates the position of State Poet Laureate in law and provides requirements for the selection, terms of service, and duties of the State Poet Laureate. It provides for the designation of past State Poets Laureate as State Poet Laureate Emeritus or State Poet Laureate Emerita.⁹

The bill also assigns certain responsibilities relating to poetry to the Florida Council on Arts and Culture (council) and grants the Department of State (department) rulemaking authority to implement the bill's provisions.

Duties of the Florida Council on Arts and Culture

The bill amends the current duties of the council to also require the council to:

- Promote the reading, writing, and appreciation of poetry throughout the state; and
- Accept nominations and recommend nominees for appointment as the State Poet Laureate.

Establishment, Selection, and Duties of the State Poet Laureate

The bill establishes the honorary position of State Poet Laureate within the department.

The bill requires the council, in accordance with procedures adopted by the department, to accept nominations for State Poet Laureate. The council must solicit nominations from a broad array of literary sources and members of the public.

The bill also requires the council to recommend at least five nominees to the Secretary of State. Each nominee must be:

- A permanent resident of the state;
- A public literary poet who has significant standing inside and outside of the state; and
- Willing and physically able to perform the duties of the State Poet Laureate as prescribed by the department, which may include, but are not limited to, engaging in outreach and mentoring for the benefit of schools and communities throughout the state and performing readings of his or her own poetry, as requested.

The bill requires the Secretary of State to submit three of the council's nominees to the Governor. The Governor must appoint one of the Secretary of State's nominees as the State Poet Laureate.

Terms of Service of the State Poet Laureate

The bill specifies that the State Poet Laureate will serve a term of 4 years. A vacancy for the remainder of the unexpired term must be filled in the same manner as the original appointment.

⁹ The Merriam-Webster Dictionary defines "emeritus" to mean "one retired from professional life but permitted to retain as an honorary title the rank of the last office held" (<http://www.merriam-webster.com/dictionary/emeritus>, last visited March 1, 2013). "Emerita" refers to a female in such position (<http://www.merriam-webster.com/dictionary/emerita>, last visited March 1, 2013).

The bill also provides that each of the state's poets laureate appointed before the effective date of the bill and each State Poet Laureate appointed under the bill's provisions, upon the appointment of his or her successor, will be designated a State Poet Laureate Emeritus or State Poet Laureate Emerita in recognition of his or her service to the state.

The bill specifies that the State Poet Laureate and State Poets Laureate Emeritus or Emerita serve without compensation. The bill does not authorize reimbursement of any expenses incurred by a State Poet Laureate.

Rulemaking Authority

The bill authorizes the department to adopt rules to administer the section.

The bill's effective date is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill adds duties relating to promotion of poetry and selection of State Poet Laureate nominees for the Florida Council on Arts and Culture, and creates duties relating to the selection and appointment of the State Poet Laureate for the Department of State and for the Governor. It also authorizes the department to adopt rules to implement the act. Department staff states costs incurred by solicitation and review of nominations and by

rule promulgation will be absorbed by the agency within existing resources.¹⁰ It is likely that costs incurred by the Governor to appoint each State Poet Laureate will also be absorbed within existing resources.

The bill prohibits compensation for State Poets Laureate and does not authorize reimbursement for expenses incurred by State Poets Laureate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Rulemaking

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.¹¹ An agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute.¹² Because legislative power involves the exercise of policy-related discretion over the content of law,¹³ any discretion given an agency to implement a law must be “pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”¹⁴

The bill authorizes the Department of State to adopt rules to administer the section, but does not explicitly require it. The bill appears to implicitly require rulemaking, however, because it requires the council’s acceptance of nominees to be in accordance with procedures by the department and requires the department to prescribe duties of the State Poet Laureate.¹⁵

Other Comments

The bill does not provide a process by which a State Poet Laureate may be removed from the position for reasons such as misconduct.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on March 7, 2013:

The CS requires more nominees to be submitted from the council to the Secretary of State, and from the Secretary of State to the Governor, than did the originally-filed bill.

¹⁰ Email correspondence between Department of State staff and Senate Governmental Oversight and Accountability Committee staff on February 21, 2013 (on file with the Senate Governmental Oversight and Accountability Committee).

¹¹ See s. 120.52(16), F.S.; *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696 (Fla. 1st DCA 2001).

¹² Section 120.536, F.S.

¹³ See *State ex rel. Taylor v. City of Tallahassee*, 177 So.2d 719 (Fla. 1937).

¹⁴ See *Askew v. Cross Key Waterways*, 372 So.2d 913 (Fla. 1978).

¹⁵ Lines 39-41 and 50-51 of the bill, respectively.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



189962

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/07/2013	.	
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	.	
	.	

The Committee on Governmental Oversight and Accountability
(Hukill) recommended the following:

Senate Amendment

Delete lines 45 - 58

and insert:

at least five nominees for appointment as the State Poet
Laureate, each of whom must be:

1. A permanent resident of the state;

2. A public literary poet who has significant standing
inside and outside of the state; and

3. Willing and physically able to perform the duties of the
State Poet Laureate as prescribed by the department, which may
include, but are not limited to, engaging in outreach and



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13 mentoring for the benefit of schools and communities throughout
14 the state and performing readings of his or her own poetry, as
15 requested.

16 (c) The Secretary of State shall, from among the nominees
17 recommended by the council, submit three nominees to the
18 Governor, who shall appoint one nominee as the State Poet
19 Laureate.

By Senator Hukill

8-00387A-13

2013366

A bill to be entitled

An act relating to the State Poet Laureate; amending s. 265.285, F.S.; assigning duties to the Florida Council on Arts and Culture relating to the promotion of poetry and recommendations for the appointment of the State Poet Laureate; creating s. 265.2863, F.S.; creating the honorary position of State Poet Laureate within the Department of State; establishing procedures for the acceptance of nominations, the qualifications and recommendation of nominees, and the appointment of the State Poet Laureate; providing terms and the process for filling vacancies; specifying that any former poet laureate becomes a State Poet Laureate Emeritus or State Poet Laureate Emerita; providing that the State Poet Laureate, the State Poet Laureate Emeritus and the State Poet Laureate Emerita shall serve without compensation; authorizing the department to adopt rules; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present paragraph (g) of subsection (2) of section 265.285, Florida Statutes, is redesignated as paragraph (h), and a new paragraph (g) is added to that subsection, to read:

265.285 Florida Council on Arts and Culture; membership, duties.—

(2) The council shall:

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00387A-13

2013366

(g) Promote the reading, writing, and appreciation of poetry throughout the state and accept nominations and recommend nominees for appointment as the State Poet Laureate under s. 265.2863.

Section 2. Section 265.2863, Florida Statutes, is created to read:

265.2863 State Poet Laureate.—

(1) The honorary position of State Poet Laureate is created within the Department of State.

(2)(a) The Florida Council on Arts and Culture, in accordance with procedures adopted by the department, shall accept nominations for appointment as the State Poet Laureate. The council shall solicit nominations from a broad array of literary sources and members of the public.

(b) The council shall recommend to the Secretary of State at least two nominees for appointment as the State Poet Laureate, each of whom must be:

1. A permanent resident of the state;

2. A public literary poet who has significant standing inside and outside of the state; and

3. Willing and physically able to perform the duties of the State Poet Laureate as prescribed by the department, which may include, but are not limited to, engaging in outreach and mentoring for the benefit of schools and communities throughout the state and performing readings of his or her own poetry, as requested.

(c) The Secretary of State shall, from among the nominees recommended by the council, submit a nominee to the Governor. The Governor shall appoint the State Poet Laureate.

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2013366

59 (3) The State Poet Laureate shall serve a term of 4 years.
60 A vacancy shall be filled for the remainder of the unexpired
61 term in the same manner as the original appointment.
62 (4) Each of the state's poets laureate appointed before the
63 effective date of this section and each State Poet Laureate
64 appointed under this section, upon the appointment of his or her
65 successor, shall be designated a State Poet Laureate Emeritus or
66 State Poet Laureate Emerita in recognition of his or her service
67 to the state.
68 (5) The State Poet Laureate and each State Poet Laureate
69 Emeritus or State Poet Laureate Emerita shall serve without
70 compensation.
71 (6) The department may adopt rules to administer this
72 section.
73 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-7-13

Meeting Date

Topic POET LAUREATE Bill Number SB 366
Name JOSEPH CAVANAUGH Amendment Barcode _____ (if applicable)
Job Title PRESIDENT, FLORIDA STATE POETS ASSOC (if applicable)
Address 3722 LONGFORD CIRCLE Phone 386-671-0808
Street
ORMOND BEACH, FL 32174 E-mail JCAVANAUGH1@GMAIL.COM
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing FLORIDA STATE POETS

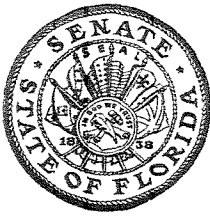
Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Finance and
Tax, Chair
Appropriations
Appropriations Subcommittee on Education
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL

8th District

February 6, 2013

RECEIVED
FEB 06 2013

GOVERNMENTAL OPERATIONS

The Honorable Jeremy Ring
405 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Ring:

Senate Bill 366, relating to the State Poet Laureate has been referred to the Government Oversight & Accountability Committee. I am requesting your consideration on placing SB 366 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Joe McVaney, Staff Director of the Government Oversight & Accountability Committee
Courtney Hicks, Administrative Assistant of the Government Oversight & Accountability Committee

REPLY TO:

☐ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
☐ Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: KN 412
Caption: Governmental Oversight and Accountability Committee

Type:
Judge:

Started: 3/7/2013 10:35:45 AM
Ends: 3/7/2013 12:02:18 PM **Length:** 01:26:34

10:35:50 AM Roll Call
10:36:27 AM SB 534 by Sen. Brandes
10:37:06 AM Motion to take up Barcode 499878 PCS for SB 534
10:37:35 AM Question - Sen. Montford
10:38:29 AM Question - Sen. Montford
10:40:20 AM Question - Sen. Montford
10:41:58 AM Question - Sen. Ring
10:44:40 AM Question - Sen. Montford
10:47:33 AM Kraig Conn, FL. League of Cities
10:48:53 AM Gary Rainey, FL. Prof. Firefighters
10:52:46 AM Lisa Henning, Dir. of Legislative Affairs, Fraternal Order of Police
10:56:14 AM Leticia Adams, FL. Chamber of Commerce
10:57:04 AM Question - Sen. Ring
10:57:55 AM Question - Sen. Ring
11:00:24 AM Carol Weisseit, Director, LeRoy Collins Institute
11:00:41 AM David Matkin, Asst. Professor
11:02:16 AM Question - Sen. Montford
11:06:15 AM Question - Sen. Montford
11:08:40 AM Question - Sen. Ring
11:09:38 AM Question - Sen. Ring
11:10:14 AM Robert Suarez, Vice President, FL. Professional Firefighters
11:14:22 AM Question - Sen. Bean
11:15:32 AM Question - Sen. Bean
11:17:04 AM Question - Sen. Bean
11:19:25 AM Kevin Watson, Lobbyist, Florida Educators Assoc.
11:24:52 AM Rowan Taylor, Firefighter, Metro-Dade Firefighters
11:26:13 AM Motion to TP SB 534
11:26:39 AM SB 366 by Hukill - State Poet Laureate
11:27:15 AM Amendment 189962
11:27:46 AM Joseph Cavanaugh, President, FL. State Poets Assoc.
11:28:49 AM Motion to adopt 189962
11:30:36 AM SB 244 by Dean
11:32:09 AM SPB 7024 by GO - State Technology
11:34:08 AM Amendment 608326
11:34:16 AM Amendment 936970
11:34:36 AM Amendment 622446
11:34:47 AM Amendment to Amendment 964212 - Withdraw
11:35:11 AM Amendment 538946 - Withdraw
11:35:28 AM Amendment 146614
11:35:45 AM Amendment 375648
11:37:09 AM Question - Sen. Benacquisto
11:40:07 AM Question - Sen. Benacquisto
11:40:38 AM Comments - Sen. Hays
11:41:25 AM Frank Meiners, Assoc. Industries of FL.
11:42:33 AM Question - Sen. Bean
11:43:39 AM Comments - Sen. Ring
11:44:49 AM Take up SB 534
11:45:47 AM Handwritten amendment by Senators Bean/Bradley
11:48:28 AM Question - Sen. Ring
11:49:00 AM Handwritten Amendment 2 by Sen. Bean/Bradley
11:50:16 AM Question - Sen. Montford
11:52:01 AM Comments - Sen. Bean

11:52:33 AM	Comments - Sen. Bradley
11:53:48 AM	Comments - Sen. Ring
11:57:54 AM	SPB 7026 by GO - Transparency in Government Spending
11:59:00 AM	Amendment 749674
11:59:14 AM	Amendment 457884
11:59:50 AM	Question - Sen. Hays
12:00:44 PM	Question - Sen. Hays